



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/72/Add.1
18 March 2005

Original:
ENGLISH / FRENCH / SPANISH

COMMISSION ON HUMAN RIGHTS
Sixty-first session
Item 12 (a) of the provisional agenda

**INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER
PERSPECTIVE**

VIOLENCE AGAINST WOMEN

**Report of the Special Rapporteur on violence against women,
its causes and consequences, Yakin Ertürk**

Addendum

Communications to and from Governments *

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

Summary

At its sixtieth session, the Commission on Human Rights, in its resolution 2004/46 entitled "Elimination of violence against women", encouraged the Special Rapporteur to respond effectively to reliable information that comes before her and requests all Governments to cooperate with and assist the Special Rapporteur in the performance of her mandated tasks and duties, to supply all information requested, including with regard to implementation of her recommendations, and to respond to the Special Rapporteur's visits and communications;

The present report contains, on a country-by-country basis, summaries of general and individual allegations, as well as urgent appeals transmitted to Governments between 1 January to 31 December 2004, as well as replies received during the same period. Observations made by the Special Rapporteur have also been included where applicable.

Due to restrictions of length of the report, the Special Rapporteur has been obliged to summarize the details of all correspondence sent and received. The Special Rapporteur wishes to emphasize that the omission of a particular country or territory should not be interpreted as indicating that there is no problem of violence against women in that country or territory.

During the period under review, the Special Rapporteur transmitted 113 communications on behalf of 338 people to the Governments of 44 countries: Algeria, Angola, Bangladesh, Burundi, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Democratic People's Republic of Korea, Democratic Republic of Congo, Egypt, Ethiopia, France, Guatemala, Honduras, India, Indonesia, Iran, Kuwait, Lao's People Republic, Malaysia, Maldives, Mauritania, Myanmar, Nepal, Nigeria, Pakistan, Russian Federation, Rwanda, Saudi Arabia, Spain, Slovakia, Sri Lanka, Sudan, Switzerland, Thailand, Togo, Turkey, United Kingdom, Uzbekistan, Zimbabwe. The Special also sent a communication to the UN Interim Mission in Kosovo (UNMIK). 49 responses to these communications were received as well as 20 replies to communications transmitted by the Special Rapporteur over the past years.

This year has been marked by an increased cooperation with UNHCR headquarters and field offices in relation to cases of women at risk of being deported to countries where they may be subjected to violence. The Special Rapporteur looks forward to pursuing this cooperation so as to strengthen effectiveness of joint protective actions.

The names of some of the victims whose cases are presented in this report have been replaced by initials, in order to respect their privacy and to prevent further victimization. The full names of all victims have been provided to the Government concerned. With the view to preserve the presumption of innocence, the same procedure has been adopted by the Special Rapporteur with regard to the alleged perpetrators whose names were transmitted to the Government. The majority of the cases in this report are regarding women, therefore, only when the cases concern a man, will the sex be indicated.

Contents

	<i>Paragraphs</i>	<i>Page</i>
Algeria.....	1 – 3	5
Angola.....	4 – 18	6
Bangladesh.....	19 – 31	7
Burundi.....	32 – 47	10
Cambodia.....	48 – 53	13
Canada.....	54 – 55	14
Chile.....	56 – 60	14
China	61 – 82	15
Colombia.....	83 – 95	28
Costa Rica.....	96 – 107	32
Côte d’Ivoire	108 – 111	34
Democratic People’s Republic of Korea	112 – 113	35
Democratic Republic of the Congo	114 – 136	36
Egypt.....	137 – 157	41
Ethiopia.....	158 – 160	45
France.....	161 – 168	46
Guatemala.....	169 – 171	48
Honduras.....	172 – 180	49
India	181 – 191	51
Indonesia	192 – 208	53
Iran (Islamic Republic of)	209 – 231	56
Kuwait	232 – 236	61
Lao’s Peoples (Democratic Republic)	237 – 239	62
Malaysia	240 – 246	63
Maldives	247 – 252	64
Mauritania	253 – 256	65
Mexico	257 – 258	66
Myanmar	259 – 270	66
Nepal	271 – 288	68
Nigeria	289 – 292	73
Pakistan.....	293 – 346	74
Russian Federation.....	347 – 371	85
Rwanda	372 – 376	89
Saudi Arabia	377 – 379	89
Spain	380 – 386	90
Slovakia	387 – 395	92
Sri Lanka	396 – 415	94
Sudan	416 – 435	98
Switzerland	436 – 438	103
Thailand	439 – 440	104
Togo	441 – 444	104
Turkey	445 – 468	105
United Kingdom of Great Britain and Northern Ireland	469 – 471	111
Uzbekistan	472 – 482	112

Zimbabwe	483 – 485	114
Communication sent to the United Nations Interim Administration Mission in Kosovo	486 – 504	115

Algeria

Appel urgent

1. Le 7 juin 2004, la Rapporteuse spéciale a envoyé un appel urgent, conjointement avec 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, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la torture, concernant la situation des personnes qui auraient été arrêtées pour avoir manifesté dans la région des Aurès. Il a été rapporté qu'ils auraient été conduits dans des véhicules militaires à l'ancienne prison coloniale, lieu de cantonnement de la gendarmerie de Tkout, où ils auraient été déshabillés et alignés avant d'être soumis à des agressions sexuelles, insultes et coups de matraques. Certains auraient eu les membres brisés et le visage balafré suite aux coups que leur auraient portés les gendarmes. Des menaces de viol sur les sœurs et mères des détenus auraient également été proférées. Plusieurs dizaines de membres du mouvement citoyen de Tkout, qui auraient fui pour se réfugier dans les montagnes environnantes, auraient été contraints de vivre dans la clandestinité en raison de la surveillance dont leurs domiciles feraient l'objet. Les 24 et 31 mai 2004, 29 des jeunes hommes arrêtés, **M.F., B.A., A.R., D.E., A.H., Y.A., T.S., L.A, Y.A., Z.A., C.K., S.R., B.A., K.S., K.M.T., M.K., G.A., B.E., Y.S., M.D., B.A., D.D., Y.M., K.T., A.A., T.A., B.A., L.T.,** et **Z.A.** auraient comparu devant le tribunal d'Arris et auraient été condamnés, pour attroupements, incitation à attroupement, diffusion de tracts et atteintes aux biens d'autrui, à des peines de 3 mois à 1 an d'emprisonnement. Le 7 juin 2004, un important dispositif policier était toujours en place dans le village de Tkout. Les parents et membres des familles des personnes ayant fui faisaient prétendument l'objet de menaces et d'intimidations, y compris de menaces de viol sur les femmes.

Réponse du Gouvernement

2. Par lettre en date du 16 juillet 2004, le Gouvernement a indiqué que les certificats médicaux établis par les médecins au terme de la garde à vue des prévenus ne mentionnent nullement que ces prévenus présentaient une quelconque trace de violence sur leur corps. Selon le Gouvernement, l'allégation de mauvais traitements n'a jamais été présentée par les prévenus lors de leur présentation devant le Procureur de la République, ni même à l'occasion de la première audience du tribunal, alors même que ceux-ci étaient assistés d'avocats. Malgré tout, une enquête a été ordonnée par le Ministre de la justice. Cette enquête n'a pas conclu à la véracité des allégations de mauvais traitements.

Observation

3. La Rapporteuse spéciale voudrait remercier le Gouvernement algérien pour sa réponse et souhaiterait obtenir des informations supplémentaires sur l'enquête menée. Par ailleurs, la Rapporteuse spéciale voudrait remercier le Gouvernement pour l'invitation qu'il lui a fait parvenir, le 13 janvier 2005, de visiter le pays dans le cadre de son mandat.

Angola

Allegation letter

4. By letter dated 13 September 2004, sent jointly with the Special Rapporteur on torture, the Special Rapporteur notified the Government that she had received the following allegations.

5. **M.V.**, Terra Nova, Necuto commune. On 2 January 2003, she was raped by soldiers of the 115th Battalion. She was found lying naked on the floor in blood-soaked sheets. She died the following week.

6. **M. de F.L.K.**, aged 16, **S.K.**, aged 13, and **J.K.M.**, aged 12, Muanza village. On 20 February 2003 at 3 p.m., the three girls were returning from Buco-Zau when they were questioned by four soldiers belonging to the Armed Forces of Angola (FAA) from the Kata Buanga barracks. The soldiers stole the girls' money and the items they had acquired in Buco-Zau, then gagged and raped them.

7. **J.M.**, a 55-year-old traditional healer, Ntsaca village. On 2 March 2003, she was beaten and imprisoned in a pit for three days at the military's special Belize unit. She was accused of performing prayers for the Front for the Liberation of the Cabinda Enclave (FLEC). On the fourth day, she was forced to dress in an FAA uniform to serve as a guide to lead the army to her brothers, who were reportedly members of FLEC. When she refused, an officer slapped her 80 times on the hand with the side of a machete. She was released shortly thereafter.

8. **A. de M.**, aged 12, Caio Nguala village, Buco-Zau. On 15 March 2003, she was raped by FAA soldiers in the village.

9. **C.M.**, aged 29, **M.T.**, aged 41, **E.G.**, aged 36, **P.M.**, aged 40, **V.M.**, aged 33, **A.J.**, **M.Q.**, and **M.P.**, aged 39, Tando-Zinze village. On 9 April 2003 the women were travelling in a truck carrying wood and charcoal when they were stopped by Fiscal Police Inspectors at a checkpoint. One of the inspectors dragged M.P. from the truck and tried to rape her several metres away. When she resisted, the inspector fired several shots, tore her clothes, and beat her. The other inspectors drew their guns, forced the women to lie down on the ground, and beat them with clubs.

10. **A.M.C.B.**, aged 16. On 6 May 2003, she was beaten by a corporal from the 708th Battalion (whose name is known to the Special Rapporteur). She reportedly went to see the corporal for payment for purchases he had made. He denied incurring any debt and beat her with his rifle butt. He warned that anyone who tried to intervene would be shot, and only stopped beating her when he had knocked her unconscious.

11. **T.S.**, aged 10, Conde-Malonda village, Buco-Zau. On 25 May 2003, she was raped by an FAA officer (whose name is known to the Special Rapporteur) in the village.

12. **A.M.**, aged 11, Panga Mongo village. On 31 May 2003, she was raped by FAA soldiers near the village.

13. **C.P.**, aged 16, Necuto commune. On 23 June 2003, as she was leaving the Catholic Mission Parish School, she was confronted by four soldiers of the 115th Battalion, who accused her of being related to a FLEC member. One soldier loaded his gun and threatened to kill her if she did not confess. Another soldier offered her freedom in exchange for sex. When she refused, she was beaten unconscious. When C.P. recovered, she saw that the soldiers had raped her, then left her naked and bleeding. She still experiences pain and finds blood in her urine.

14. **A.N.**, aged 18, Buco Zau. On 10 August 2003, as she was washing clothes in the Luali River, an FAA corporal of the 704th Battalion stationed in Buco Zau threw her into the water and attempted to drown her. He then dragged her to the bank and raped her. When villagers attempted to intervene, soldiers fired several shots in the air to drive them away and then fled.

15. **C.C.**, aged 15, Cata-Buanga, Buco-Zau. On 11 August 2003, as she went to search for bananas, she was detained and held at the Cata-Buanga detachment by the commanding captain (whose name is known to the Special Rapporteur), and raped.

16. **M.P.**, aged 33, Sevo da Buala village, Necuto commune. On 2 October 2003, FAA soldiers arrived at her home in search of her husband, and beat her with their rifle butts when they were unable to find him.

Observations

17. The Special Rapporteur would like to reiterate her interest in receiving a reply from the Government in regard to the allegations submitted.

18. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Elimination of Discrimination against Women about the attitude of law enforcement officers towards women who report cases of violence, which results in women victims being reluctant to report such cases of abuse (A/59/38, (para. 152). The Committee also expressed its concern at the exploitation of prostitutes, especially young girls, and the lack of information about the efforts to combat this phenomenon (ibid., para. 156).

Bangladesh

Allegation letter

19. By letter dated 9 August 2004, sent jointly with the Special Rapporteur on torture, the Special Rapporteur notified the Government that she had received allegations concerning **three Hindu women** of Biswanathpur village. On 5 July 2003, a gang of men attacked the homes of Hindu families in the village of Biswanathpur in the sub-district of Kaligaonj, Satkhira. In the attack, three women were raped and several houses were destroyed. They were released from the hospital on 21 July. The victims have not undergone an official medical examination. The police warned the victims not to do so and threatened harm to the victims' husbands if they did.

Government reply

20. By letter dated 11 August 2004, the Government reported that allegations of rape of the three women had been found to be baseless and unfounded. The incident was a land disputed between two rival groups and the law enforcement authorities remained seized of the matter.

Allegation letter

21. By letter dated 29 September 2004, sent jointly with the Special Rapporteur on torture, the Special Rapporteur notified the Government that she had received information concerning **I. Z. N.**, aged 26, from Sholna. She was reportedly arrested on 28 April 2004 at Dhanmondi Trauma centre, Dhaka, and taken blindfolded by alleged officers of Ramna police station to an unknown place where she was interrogated and tortured until 30 April 2004. She was kicked on her legs and beaten with a heavy stick and rifle. She was subjected to electric shocks and a pin was pushed into her finger. She was brought before a court on 1 May 2004 and remanded for one day. However, the police are said to have kept her in custody for two days. It is alleged that the victim was targeted because of her political beliefs. A complaint was filed against the police involved in the incident, but no action was reportedly taken to bring the perpetrators to justice.

Allegation letter

22. By letter dated 29 September 2004, the Special Rapporteur advised the Government that she had received information concerning the situations of the following women:

23. **G.R.B.** a 15-year-old Hindu girl, from Perojpur. According to information received, she was gang-raped by seven men, whose names are known to the Special Rapporteur. The incident occurred on 20 May 2004, at about 8 a.m., while she was going to Perojpur town with her younger brother. On her way, she was forcibly taken to the house of a man in Sikdar Mallick of Perojpur Sadar P.S District-Perojpur, where she was gang-raped and tortured. G.R.B. was taken to Perojpur Sadar Hospital for medical examination. The doctors allegedly produced a false report, allegedly with the intention of protecting one of the perpetrators. On the same day, a case file was opened by the police. At the time the information was received, the incident was under investigation, testimonies from witnesses having been received. The officer in charge of the case at Bali Babla, Nazirpur police station had provided assurances that the perpetrators would be arrested. However, concerns were expressed that the victim might face discrimination in the legal proceedings because she belonged to a poor Hindu minority family.

24. **J.T.**, aged 19 and her two cousins, **R.T.** and **K.T.**, three young women from a low-caste Hindu family. According to information received, they were gang-raped on several occasions by five men, the names of three being known to the Special Rapporteur. The incidents occurred in Fatemabad village, under Lalmohan police station of Lord Hardinge in Bhola District of Bangladesh. The police were alleged to have not taken any action. The cases are as follows.

25. **J.T.** was gang-raped by this group of men during two days in September 2002. Following the rape, her husband left her. **R.T.** was visiting her parents with her husband in Charharish village, in the district of Bhola, in January 2003 when she was forcibly taken from the bedside of her husband and later gang-raped by the same men in Ilisha, in Bhola. Fearing social disgrace, her husband abandoned her following the incident. **K.T.** was raped on 4 June 2003 early in the

morning, while she was on her way to the pond near her house. The rape took place in the house of a man involved in the other incidents, in the village market Baturhat near the canal. It is reported that the man who directed the group is quite well known in the locality for raping girls. This was confirmed by members of his family. S.T., father of K.T., and R. T. went to Charfashon police station to register a complaint. However, it is alleged that the officer in charge refused to register the case. On 6 June 2004, however, an officer went to the locality to inquire into the rapes but did not conduct any serious investigation and asked the family to give him money.

26. **S.A.**, a 32-year-old woman from Shimrail, Kosba District, Brahmambaria. According to information received, she was reportedly physically and mentally tortured in February 2004 by her husband, who is a police constable. Her husband then filed for divorce and took their two sons, aged 10 and 6 with him. S.A. filed a case against her husband on 23 February 2004 with Kosba police station under the Women and Children Prevention of Repression Act, but at the time the information was received, no action had allegedly been taken. Furthermore, her husband threatened that there would be dire consequences for her if she filed a case against him. He also reportedly hired someone who regularly sent her death threats.

Follow-up to previously transmitted communications

27. By letter dated 17 February 2004, the Government responded to a letter dated 17 September 2003, sent jointly with the Special Rapporteur on torture, concerning three Jumma women **P.T.**, **S. T.** and **K. T.** (E/CN.4/2004/66/Add.1, para. 18). The Government reported that it is widely believed that in retaliation for the arrest of two supporters of the tribal group the Pahari Chhatra Parishad (PCP) for illegal toll collection, PCP supporters brought allegations of rape on behalf of three tribal women and of stabbing a 1-year-old child to antagonize the local population against the army. The incidents and allegations of rape and attack brought against the army were widely covered by the media. However, according to the Government, the media investigated and found that the allegations were not true.

28. By letter dated 24 May 2004, the Government responded to a communication of 5 November 2003 sent jointly with the Special Rapporteur on torture, concerning **B.B.** (E/CN.4/2004/66/Add.1, para. 19). According to the Government, on 16 October 2003 the Officer-in-Charge of Bagmara police station found B.B. and a man in a compromising position and arrested them on charges of engaging in immoral activities in a public place under section 54 of the Criminal Procedure Code. During interrogation, B.B. admitted having an illicit relationship with the man. They were brought before a magistrate the same evening, pleaded guilty and were fined 200 taka each. On 17 October 2003, the Chairman of the Hatgangopara Union Council went to the Bagmara police station and alleged that the man had been released by the constables on the way to the court the previous evening. The constables then raped B.B. B.B. was said to be undergoing treatment at Rajshahi Medical College Hospital. The Assistant Superintendent of police conducted an immediate inquiry. The Superintendent of Police, in the meantime, saw B.B. at the hospital. Investigations carried out found all three men guilty of having raped B.B. on the night of 16 October on the way back from the court. According to the Government, the allegations that the police constables raped B.B. were unfounded. However, an independent inquiry was conducted into the allegations and, in order to ensure the neutrality and impartiality of the inquiry, the Officer-in-Charge and the constables were transferred from the police station. The Government reiterated that as a State party to almost all

major international human rights instruments, the State is deeply conscious of its commitment to women and remains vigilant against any violation of the human rights of women.

Observations

29. The Special Rapporteur would like to thank the Government for its responses to previously transmitted communications and expressed her interest in receiving a reply from the Government in regard to all the allegations submitted in 2004.

30. Concerning the case of the three Hindu women (see paras. 18 and 19 above), the Special Rapporteur thanks the Government for its response. However, she would appreciate receiving more detailed information about the investigations conducted.

31. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Elimination of Discrimination Against Women that despite the adoption of the Prevention of Women and Children Repression Act, 2000, the Acid Control Act, 2002, and the Acid Crime Control Act, 2002, violence against women, including domestic violence, rape, acid throwing, dowry-related violence, fatwa-instigated violence, and sexual harassment in the workplace continue to exist. The Committee also expressed concern about the continuing prevalence of trafficking in women and girls in the country and the fact that although many persons have been accused or are on trial for trafficking-related crimes, only a few have been convicted (A/59/38, para. 243).

Burundi

Lettre d'allégations

32. Par lettre en date du 10 mai 2004, la Rapporteuse spéciale, conjointement avec le Rapporteur spécial sur la torture, a informé le Gouvernement qu'elle avait reçu les renseignements suivants :

33. **F.** et sa sœur **G.** auraient quitté le camp de personnes déplacées de Kavumu, dans Bujumbura-rural, où elles vivaient, pour aller chercher de la nourriture dans leurs champs situés sur la colline de Muyire, le 15 mai 2002. En arrivant, elles y auraient vu des militaires. Prise de panique, **G.** aurait cherché à fuir et un militaire l'aurait alors tuée par balle. **F.** aurait été violée par l'un des militaires du groupe. Elle aurait perdu abondamment son sang et n'aurait été retrouvée que le lendemain par des gens qui l'auraient aidée à rentrer au camp. Elle n'aurait pas subi le test de dépistage du VIH.

34. **E. S.**, âgée de 15 ans, aurait été arrêtée, forcée à aller dans des buissons, et violée par un militaire à Bisinde, zone de Ruyigi, en septembre 2003, alors qu'elle rentrait du marché. Le militaire lui aurait dit de raconter qu'elle avait été violée par un membre du Conseil national pour la défense de la démocratie – Forces pour la défense de la démocratie (CNDD-FDD [Nkurunziza]).

35. **L. N.**, âgée de 16 ans, revenait d'un mariage seule chez elle, lorsqu'elle aurait croisé une patrouille de militaires à Bisinde, zone de Ruyigi, en septembre 2003. Elle aurait été violée par ceux-ci. **L.N.** aurait déjà été violée trois mois auparavant par un combattant du CNDD-FDD

(Nkurunziza) qui se serait introduit dans son domicile en compagnie de sept autres hommes pour réclamer de l'argent. A cette occasion, les membres de sa famille et elle-même auraient été battus.

Lettre d'allégations

36. Par une lettre en date du 21 octobre 2004, la Rapporteuse spéciale, conjointement avec le Rapporteur spécial sur la torture, a informé le Gouvernement qu'elle avait reçu des renseignements selon lesquels les femmes burundaises continueraient d'être victimes de violence sexuelle et de traitements dégradants. D'après les informations reçues, l'année 2003 aurait été marquée par un fort accroissement du nombre de viols. 446 cas de viol auraient été enregistrés, la plupart ayant eu lieu dans la municipalité de Bujumbura où seulement 64 femmes auraient porté plainte. 38 cas de viol auraient également été recensés dans la province de Bubanza. 4 des victimes auraient été âgées de moins de 10 ans, et, sur ces 38 cas, 15 seraient attribués aux membres des forces armées. Entre mai et août 2003, 60 cas de viol de femmes de 9 à 77 ans auraient été traités à l'hôpital de la province de Ruyigi. Il a également été rapporté que les auteurs de viols seraient dans leur grande majorité des membres des forces armées burundaises et de groupes politiques armés. En 2003, des centaines de femmes auraient été violées par des combattants du CNDD-FDD, le plus souvent au cours d'opérations de pillage. Les viols ne se limiteraient pas aux régions les plus touchées par les affrontements. Dans certaines régions du pays, l'ampleur des viols tendrait à indiquer une stratégie délibérée des belligérants qui consisterait à utiliser le viol et d'autres types de violence sexuelle contre les femmes comme arme de guerre pour semer la terreur au sein de la population civile, l'avilir et l'humilier. Parmi les femmes les plus vulnérables figureraient : les femmes non accompagnées, les veuves, les mères célibataires, les prostituées, les réfugiées, les déplacées de guerre à l'intérieur du pays, les détenues, les handicapées physiques ou mentales, les petites filles non gardées, les écolières, les adolescentes et les enfants placés dans des familles nourricières. L'impunité dont jouiraient les forces de sécurité pour les viols et autres atteintes aux droits humains commis par leurs membres serait le principal facteur expliquant pourquoi les viols et autres formes de violence sexuelle atteignent des niveaux aussi alarmants. L'inaction présumée des autorités conduirait la plupart des femmes victimes de violences sexuelles à ne pas chercher à obtenir réparation. Un manque de rigueur quant au traitement des plaintes aurait été observé et des investigations ne seraient que rarement conduites, les policiers se limitant à recueillir le témoignage des victimes et de leurs témoins. Dans certains cas, la police refuserait purement et simplement d'ouvrir une enquête. Certains postes de police, et notamment ceux de chefs-lieux de zones et de communes, exigeraient des victimes que les femmes paient les frais d'incarcération de leurs agresseurs, faute de quoi ceux-ci seraient libérés. Il a également été rapporté que des policiers et des magistrats auraient ridiculisé et humilié des femmes qui se seraient présentées à eux. Dans un cas, un magistrat aurait même enjoint à une victime d'aller délivrer elle-même la citation à comparaître à son violeur présumé.

37. S'agissant du Ministère public, il ne ferait pas usage de tous ses pouvoirs pour lutter contre les violences sexuelles; celui-ci ayant le monopole de l'action publique, la victime ne pourrait se constituer partie civile qu'une fois l'action publique engagée. Quand la victime ne connaît pas ses agresseurs, elle ne pourrait porter plainte. Faute d'assistance judiciaire, les femmes victimes de violences sexuelles n'auraient aucune influence sur le déroulement de la procédure. Les femmes seraient en outre très souvent intimidées par leurs agresseurs au cours de la procédure et aucune mesure ne serait prise pour les protéger d'éventuelles représailles. Il a

également été rapporté que certains juges exigeraient un certificat médical établi par un médecin du Gouvernement à titre de preuve, alors même que les femmes auraient souvent des difficultés à se rendre à temps dans les centres médicaux et que les médecins susceptibles de produire ces certificats ne seraient pas toujours disponibles. Même dans les situations où le coupable est condamné, la victime n'obtiendrait que rarement réparation.

38. Outre les séquelles physiques de ces brutalités – blessures, grossesses, infections dues au VIH-sida et autres maladies –, les victimes de viol risqueraient d'être exclues de la société et abandonnées par leur propre famille. Les services de santé seraient dotés d'un budget insuffisant et s'avèreraient inaccessibles dans de nombreuses provinces, particulièrement pour les femmes qui vivent loin des dispensaires ou dans les zones de conflit. Il arriverait aussi que, tout simplement, les médicaments ne soient pas disponibles.

39. Dans ce contexte, les Rapporteurs spéciaux ont été informés des cas individuels suivants :

40. **A. N.**, originaire de la colline de Gihehe, commune de Giheta, aurait passé trois mois à l'hôpital après avoir été violée à plusieurs reprises en avril 2003. Des membres de groupes armés se seraient présentés à son domicile et lui auraient demandé de l'argent. Comme elle n'en avait pas, ils l'auraient frappée au visage et dans le dos avec leurs fusils avant que neuf des hommes présents ne la violent.

41. **R. N.**, âgée de 13 ans, vivant à Ruhwago, dans la province de Ruyigi, aurait été violée dans la nuit du 3 mars 2003. D'après les informations reçues, la fillette se serait réveillée cette nuit-là en raison de la présence inhabituelle au domicile familial de nombreuses personnes. Elle aurait assisté au viol de sa mère par deux hommes avant d'être elle-même déshabillée, emmenée à l'extérieur, menacée de mort et violée par deux hommes.

42. **M. H.**, une femme de Bujumbura-rural, veuve depuis 1999, aurait été violée en mars 2002 par deux militaires alors qu'elle se trouvait dans un camp de personnes déplacées, après avoir été forcée de quitter sa colline.

43. **O.**, âgée de 42 ans, aurait été violée par un militaire en 2002 alors qu'elle quittait le camp de déplacés où elle vivait, dans Bujumbura-rural. Informé de ce viol, son mari l'aurait abandonnée avec ses enfants.

44. Les Rapporteurs spéciaux ont par ailleurs reçu des informations selon lesquelles seuls les locaux de la police judiciaire des parquets et de la police municipale de Bujumbura disposeraient de cellules réservées aux femmes, les autres postes de police de zones et des communes du pays n'ayant aucun endroit aménagé à cet effet. S'agissant des prisons, seule la prison de Ngozi ferait une nette séparation entre les quartiers réservés aux hommes et ceux réservés aux femmes et aux enfants. Dans les autres prisons, les enfants resteraient au contact des adultes. Quant aux femmes, elles ne seraient effectivement à l'écart des hommes que durant la nuit.

Appel urgent

45. Le 26 mars 2004, la Rapporteuse spéciale, conjointement avec le Rapporteur spécial sur la vente d'enfants, la prostitution d'enfants et la pornographie impliquant des enfants, a envoyé un appel urgent sur des **cas de viol de femmes et d'enfants**. Entre novembre 2003 et mars 2004,

70 cas de viol contre des femmes et des enfants auraient été enregistrés. Les rapports font également état de trois enfants de 4 ans qui auraient été violés par des civils. Ces viols auraient apparemment été commis par des rebelles, des déserteurs des forces armées burundaises et des bandes armées civiles. Dans Muramvya, des femmes seules seraient systématiquement violées à la tombée de la nuit par une bande armée qui serait connue de la population. Plutôt que de rester seules chez elles et d'être agressées, ces femmes semblent obligées de se regrouper dans des endroits sûrs pour y passer la nuit avant de retourner chez elles au matin. Certains de ces viols seraient commis en représailles à la non-conclusion de mariages promis, les futurs maris se vengeant sur les femmes qu'ils auraient dû épouser. Une grande majorité des coupables de tels actes seraient toujours en liberté, certains d'entre eux étant fort bien connus de la population. En outre, les femmes seraient menacées de représailles si elles portent plainte.

Observations

46. Vivement préoccupée par les informations qu'elle continue de recevoir s'agissant des violences faites aux femmes dans le pays, la Rapporteuse spéciale réitère son intérêt à recevoir des informations de la part du Gouvernement sur les investigations menées relativement à ces cas et sur les mesures prises en vue de prévenir et de punir de tels actes.

47. La Rapporteuse spéciale souhaite en outre attirer l'attention sur un communiqué de presse publié, le 18 août 2004, conjointement avec le Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et d'intolérance qui y est associée, l'Expert indépendant sur la situation des droits de l'homme au Burundi, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Conseiller spécial du Secrétaire général sur la prévention du génocide, par lequel les experts ont vivement condamné le massacre qui a eu lieu dans la nuit du 13 août dans le camp de réfugiés de Gatumba au Burundi, près de la frontière avec la République démocratique du Congo.

Cambodia

Allegation letter

48. By letter dated 14 December 2004 sent jointly with the Special Rapporteur on trafficking in persons, especially women and children, the Special Rapporteur notified the Government that she had received information that a raid was carried out on the Hotel Chay Hour II in Tuol Kok on 7 December 2004 by the Ministry of the Interior's Anti-Human-trafficking and Juvenile Protection Department in conjunction with the NGO AFESIP (Agir pour les Femmes en Situation Précaire). Following an agreement with the Anti-Trafficking Department, 83 women working as prostitutes in the hotel were brought to an AFESIP shelter. Two commune policemen stayed outside the shelter to provide protection for the women, but they reportedly left later that night.

49. In the morning of 8 December 2004, a group of about 30 men and women, some of them were armed with handguns, broke open the shelter's gate.

50. Reportedly, as the gate opened, the girls ran out in the commotion. One AFESIP staff member who tried to prevent the girls from leaving had her hair grabbed by a man who also attempted to slap her. There were also shouted threats against AFESIP. It is further reported that

before the raid, some of the women had expressed fears that the owner of Chai Hour II hotel would come to take them, as he was very powerful. Reportedly, the three policemen from the Anti-Trafficking Department who had been assigned to provide protection for the shelter that morning were not able to control the situation. Police reinforcements reportedly arrived only when all the girls had already left the shelter. A total of 91 women (83 from the hotel and 8 from other cases) had left the shelter. Some left in some three to five vehicles waiting outside while others simply ran away. Only one girl, who hid in the bathroom, was reportedly left at the shelter after the incident.

51. In the evening, the municipal penal police chief and the Tuol Kok district police chief reported being unaware of the incident and that the raid had not been reported to them. Allegedly, the Head of the Anti-Trafficking Department, whose officer had taken part in the operation on 7 December to release the trafficked women, also reported not being aware of the incident.

52. Concerns were expressed for the physical and mental integrity of the women who left the shelter, as they might have been coerced into leaving or persuaded to do so under threat. Concerns were also expressed about the security of AFESIP staff.

Observation

53. The Special Rapporteur reiterates her interest in receiving a reply from the Government in regard to the allegations submitted.

Canada

Follow-up to previously transmitted communication

54. By letter dated 15 September 2004, the Government provided information concerning a letter sent jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography regarding fraudulent adoption practices and violence against women (E/CN.4/2003/75/Add.2, paras. 20 - 25). The Government indicated that in December 2002, it had informed the Special Rapporteurs that no investigation would be possible without the consent of the victims. The Government had begun examination of the substance of C.H.'s allegations, but as Canada had not received any consent from the other two individuals it could not look further into the allegations.

Observation

55. The Special Rapporteur thanks the Government for the information submitted and its willingness to cooperate with the mandate. She would appreciate being kept informed on the case of C.H.

Chile

Llamamiento urgente

56. El 12 de mayo de 2004, la Relatora Especial juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión envió un llamamiento urgente

sobre la situación de **O.A.** ex-prisionera política en Chile, quien habría sido condenada por difamación criminal (injurias y calumnias) por la Corte de Apelaciones de Santiago el 26 de abril de 2004. Según las informaciones recibidas, O. A. habría sido condenada a una pena de prisión remitida de dos meses. Por otra parte, habría recibido una multa de \$1,000 y dos millones de pesos (aproximadamente US \$3,350) en daños. Sus abogados habrían apelado la decisión.

57. Se alega que en julio de 2003, O. A. habría manifestado en una entrevista de televisión que el director de la Policía de Investigaciones de Chile, N. M., la habría sometido a abusos sexuales mientras estuvo detenida por el ejército chileno en noviembre de 1973, en la Escuela de Artillería del ejército en Linares, lugar que habría sido usado como centro de interrogación después del golpe militar de 1973, y donde se habrían mantenido a casi todos los detenidos incomunicados y sometidos a torturas con participación de miembros de la Policía de Investigaciones en los interrogatorios. El 26 de abril de 2003, el juez L. C., de la Corte de Apelaciones de Santiago, habría expresado que O. A. no habría presentado pruebas suficientes para sostener sus denuncias, y por eso sería culpable de difamación en contra de N. M.

Respuesta del Gobierno

58. Por carta con fecha de 19 de mayo de 2004, el Gobierno proporcionó las siguientes informaciones:

59. El 26 de abril de 2004, el Ministro Instructor dictó la sentencia definitiva de primera instancia condenando a la Sra. V. como autora del delito de injurias graves a una pena de 60 días de prisión en su grado máximo y a pagar, por concepto de indemnización de perjuicios, la suma de dos millones de pesos. El Gobierno estima absolutamente improcedente la presunta vulneración del derecho de la libertad de expresión, por cuanto los delitos de injurias, calumnias o difamación no se encuentran amparados por el derecho antes enunciado. La Sra. V. imputó al señor M. la comisión de un delito sin aportar ningún tipo de pruebas que permitieran estimar que éste efectivamente había tenido lugar.

Observación

60. La Relatora Especial agradece el Gobierno por su respuesta. No obstante, quisiera recordar al Gobierno su obligación de investigar las alegaciones de violencia contra la mujer.

China

Allegation letter

61. By letter dated 10 June 2004, sent jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Rapporteur on torture, the Special Rapporteur advised the Government that she had received information concerning **Z.Y.**, 4-year-old. It is alleged that on 1 January 2004 she was taken from her home in Zitong town, Tongnan county, Chongqing city, by four police officers from the Tongnan County National Security Team. The police officer alleged to have been in charge of the operation is known to the Special Rapporteurs. It is reported that both of Z.Y.'s parents, **Z.H.** and **W.Y.**, had been arrested previously, allegedly because they are practitioners of Falun Gong. In February 2002, it is alleged that her father, Z.H., was sent to Xishanping Labour Camp, where he was tortured and

suffered a broken nose, missing teeth and injured ribs. He is now reported to be detained at an undisclosed location. It is alleged that on 23 December 2003, Z. Y.'s mother was taken into detention and tortured. She was reportedly released after being on hunger strike for 54 days. It is reported that upon release she began to search for her daughter. W.Y.'s current whereabouts are reportedly unknown. In view of ZY.'s age and vulnerability, serious concern was expressed for her physical and mental integrity, and in particular that she might be at risk of torture or other forms of ill-treatment, or of being trafficked.

Allegation letter

62. By letter dated 20 July 2004, the Special Rapporteur advised the Government that she had received information on the following individual cases.

63. **Q.Y.**, born in 1963, was an engineer and Vice-Director of the Basic Construction Section of a food company in Guye district, Tangshan city, Hebei province. She was a Falun Gong practitioner who was ordered in July 1999 by a Tangshan city policeman and a local party commissioner (whose name is known to the Special Rapporteur) to renounce Falun Gong. On the same day, she went to Beijing with her husband, W.J., to appeal to the Government to stop the persecution of Falun Gong. Their 8-year-old-son remained alone at home. They were arrested at the bus station and escorted back to the Tangshan city police station. Upon being released and returning home, they found their house had been ransacked and all the Falun Gong materials taken. On 19 February 2000, Mr. W. was again detained, although he was not charged. Mrs. Q. and another Falun Gong practitioner went to Beijing the same day to appeal again to the Government. The next morning, while they were doing their exercises in Tianmen Square, they were attacked by police who beat them and dragged them to a nearby police station. A few hours later she was again escorted back to Tangshan city, arriving at night. At the police station, she was handcuffed to an iron pole outdoors, in the cold, where she remained for several hours. She was then interrogated by police officials, including the Director of the First Division, who kicked her on her left side. Another director slapped her face so hard that it became swollen. She was then bound with a rope, her arms drawn up high behind her back in a painful position. The next morning, 21 February, a policeman (whose name is known to the Special Rapporteur) and others went to Mrs. Q.'s home, reportedly to confiscate her property, but they found that the house had already been ransacked. They returned later for a more intensive search and confiscated Falun Gong books and materials that had been hidden in the coal storage. They also took the television and VCR. In protest, Mrs. Q. began a hunger strike on 24 February. That afternoon, she was sentenced with some 20 other Falun Gong practitioners and sent to a detention centre, where she continued her hunger strike. She was eventually sent to Ankang Hospital, where she was kept tied to her bed to prevent her from doing her Falun Gong exercises. On 18 August she was released without charge. During her detention, she was expelled from the Communist Party and fired from her job. On 18 September 2000 Ms. Q. was arrested again and sent to the Hebei (Kaiping) Labour Camp. In October, her husband was sentenced to two years of forced labour for crimes he did not commit. Beginning in mid-January 2001, persecution of Falun Gong practitioners in the labour camp increased. Every time Mrs. Q. tried to do her exercises, she was punished by being made to stand outside in the snow or tied up for half a day. On 21 February, she was taken to an office and tortured by a camp guard (whose name is known to the Special Rapporteur) and others. She was given electric shocks, after which she went into convulsions and stopped breathing. She was sent to hospital for emergency treatment. Although she recovered, there was permanent damage to her nervous system. She coughed blood and had

difficulty walking. On 24 April, she was again rushed to the hospital following further mistreatment in connection with her refusal to watch a movie defaming Falun Gong. Her physical condition continued to deteriorate, and on 12 May she was finally sent to an outside hospital where she was kept under continuous surveillance by the "610 Office". During this time, her husband was still in the labour camp and her son was living with her elderly parents. As a result of the stress, Mrs. Q. suffered a mental breakdown and was sent to a psychiatric hospital where she remained for six months. The "610 Office" would not allow her family to take her home. On 15 January 2002, she was sent to a brainwashing centre where she remained for another six months, when she was released. Mrs. Q.'s hair turned white while she was detained. She is mentally confused, has an irregular heartbeat and has trouble breathing. Her hands tremble. Despite her debilitated condition, a police officer (whose name is known to the Special Rapporteur) still goes to her home to harass her.

64. **Z.Y.**, aged 48, was an employee at a rubber plant in Zhangjiakou city, Hebei province. She lived in Gongrenxincun, Qiaoxi district, Zhangjiakou city. In 1998, she was diagnosed with late-stage lymphoid cancer. It is reported that after she began practising Falun Gong, she recovered and was able to resume her work. On 20 July 1999, Z.Y. took her medical records to Beijing, hoping to show the Government that Falun Gong could have positive effects. The Beijing police arrested her, and later ordered police from Zhangjiakou city to pick her up. After her return to Zhangjiakou city, she was detained and fined. She was later released, but police officers from Beixincun police station continued visiting her home and workplace to harass her. She was detained on numerous occasions and sent to brainwashing classes. On the night of 17 February 2004, Ms. Z. was arrested at her home by officers from the Dajingmen police station and sent to Shisanli Detention Centre. She began a hunger strike to protest the detention. Then she was sent to Shalingzipiandi Legal School where she was reportedly tortured. In mid-April 2004, when her family visited her, they found to be in a state of mental confusion. The police refused to release her or provide any treatment for her. She died on 4 May 2004. The Dajingmen Police Department did not notify Ms. Z.'s family that she was critically ill until after she had died.

65. **L.S.**, aged 37, a resident of Luannan county, Hebei province, has been arrested and beaten many times for being a Falun Gong practitioner. When she went to Beijing to appeal to the Government to stop the persecution of Falun Gong, police from the Tiananmen Square police station arrested her and detained her for five months. At the time of her arrest she was two months pregnant. During her detention, she was kept in shackles, her hands attached to her feet so that she was unable to stand up. The police tortured her every day and when her foetus was seven months old and viable, they forced her to have an abortion. She was then sent home, but two weeks later she was arrested again and sent to a brainwashing centre, where she began a hunger strike to protest the detention. Because it was less than one month after the forced abortion, her mother came to the centre to look after her. Her mother appealed to the county government for her daughter's release, which was granted five days later.

66. In July 1999, **S.J.**, who is in her 40s, from Gucheng, Qiansuo town, Suizhong county, Huludao city, Liaoning province, went to Beijing to appeal for Falun Gong, but was intercepted by police and escorted back to her home town. In August 1999, S.J. again went to Beijing to appeal to end the persecution. She was arrested and taken to the Suizhong Detention Centre, where the police allegedly took 2,000 yuan in cash from her. On 31 October 1999, S.J. was again arrested and sent to the Masanjia Labour Camp. She was later transferred to Zhangshi Labour Camp, a youth correction facility, and then transferred again to the Longshan Labour Camp,

Shenxin Labour Camp, Dabei Prison and other places, where she was subjected to torture. Guards (whose names are known to the Special Rapporteurs), allegedly following orders, pushed S.J.'s head down and stuffed her mouth with a towel so she could not scream. Then they jabbed her fingers with needles and shocked her with three electric batons. They sent her to an underground hospital in Shenyang city, where she was forcibly injected with drugs. On another occasion, she was forced to disrobe and shocked with electric batons all over her body for an entire night. The next day her face was covered with large blisters, badly swollen and bruised. She was also severely beaten and forced to squat for extended periods. One day the police took Ms. S. to an office where she was shocked with electric batons and tied to a bedpost. They kept her there for two days and one night without allowing her to eat, sleep, or go to the toilet. When she was finally released, several people had to carry her as she could not walk. During the 2002 Chinese New Year, Ms. S.'s family received a notice from the labour camp requesting a payment of 1,500 yuan to cover "medical expenses" before they could take Ms. S. home. Once home, Ms. S.'s family found her to be mentally traumatized as a result of her experiences. She had unhealed wounds around her genitals and needle punctures on her body. The entire family has suffered financially and emotionally because of the mental and physical injuries suffered by Ms. S., who nevertheless continues to be harassed by the authorities.

Allegation letter

67. By letter dated 15 October 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief, 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 right to the highest attainable standard of physical and mental health and the Special Rapporteur on torture, the Special Rapporteurs expressed their concern at reports of systemic repression against the Falun Gong and other "heretical organizations" (*"xiejiao zuzhi"*). Over the past five years, hundreds of cases of alleged violations of the human rights of Falun Gong practitioners have been brought to the attention of the Special Rapporteurs. Many of these allegations have been reported back to the Chinese authorities and are reflected in reports of the Special Rapporteurs to the Commission on Human Rights. The Special Rapporteurs are concerned that reports of arrest, detention, ill-treatment, torture, denial of adequate medical treatment, sexual violence, deaths, and unfair trial of members of so-called "heretical organizations", in particular Falun Gong practitioners, are increasing. They are concerned that these allegations may reflect a deliberate and institutionalized policy of the authorities to target specific groups such as the Falun Gong. According to information received, on 10 June 1999 the Central Committee of the Chinese Communist Party established an office for dealing with the Falun Gong, commonly referred to as the "610 Office" (for the date of its establishment), and officially later as the State Council Office for the Prevention and Handling of Cults. This institution reportedly was given a mandate to repress Falun Gong and other "heretical organizations", and is operating outside the rule of law. Reports indicate that Falun Gong was officially banned on 22 July 1999 through a decision of the Ministry of Civil Affairs and since then several decisions, notices, regulations and other judicial interpretations have been issued by the Government and judicial authorities to legitimize the official repression against "heretical organizations", including the Falun Gong. In addition, according to reports a media campaign was launched against the Falun Gong and Falun Gong practitioners in June 1999. It is believed that this campaign followed a protest gathering in Beijing on 25 April 1999, involving more than 10,000 Falun Gong practitioners. Further reports indicate that in February 2001, the Central

Committee of the Communist Party called for a Central Work Conference of high-level party officials. The purpose of this meeting was reportedly to adopt a plan calling for the formation of local “anti-cult task forces” in all universities, State enterprises and social organizations to reinforce the “610 Office” and strengthen local control over the Falun Gong. An analysis of reports received by the Special Rapporteurs indicates that the alleged human rights violations against Falun Gong practitioners, including systematic arrest and detention, are part of a pattern of repression against members of this group. Most of those arrested are reportedly heavily fined and released, but many are detained and ill-treated in order to force them to formally renounce Falun Gong. Those who refuse are sent to “re-education through labour” camps, where reportedly torture is used routinely, resulting in many deaths. The Special Rapporteurs are further concerned at reports that few Falun Gong practitioners are prosecuted. When charges are laid they reportedly include allegations such as “disturbing social order”, “assembling to disrupt public order”, “stealing or leaking State secrets” or “using a heretical organization to undermine the implementation of the law”. According to the information received, those prosecuted have been unfairly tried and many have received lengthy prison sentences. In this respect it is reported that on 5 November 1999, a notice issued by the Supreme People’s Court instructed all local courts to do their “political duty” in bringing to trial and punishing “severely” those charged with “heretical organizations crimes”, “particularly Falun Gong”, and to handle these cases “under the leadership of the Party committees”.

Urgent appeal

68. On 8 January 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture, regarding **C.S.** a 61-year-old resident of Shenze county, Shijiazhuang city, Hebei province, who was reportedly detained in the Shijiazhuang Labour Camp because she allegedly practises Falun Gong. On 8 April 2001, she was reportedly transferred to the Gaoyang Labour Camp in Hebei province. It is alleged that as she went on a hunger strike to protest the treatment received, she was force-fed human excrement on three separate occasions, and afterwards suffered from serious diarrhea. As a result, she was reportedly sent to the Gaoyang County Hospital for emergency treatment. The attending doctor allegedly pointed out that feeding a person human excrement in that quantity can cause death. Upon being sent back to the labour camp, she was allegedly continuously beaten by the guards, who are said to have crushed her nipples, shocked her with electric batons while pouring water onto her, used pliers to pinch her flesh, and buried her in snow until she passed out. On 8 January 2004, she was reportedly still detained in the labour camp, where she was believed to be at risk of being subjected to similar treatment.

Urgent appeal

69. On 15 March 2004, the Special Rapporteur sent a joint urgent appeal 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 torture, regarding **Y.T.**, a 37-year-old Falun Gong practitioner from the Zuhai suburb of Guangzhou city, Guangdong province. On 23 February 2004, Y.T. is said to have been taken from her home following an application for a passport. Her husband was reportedly also interrogated in connection with her passport application and detained for re-education at the Chutou Law School, in Guangzhou Baiyun district. On 10 March 2004,

information was received that Y.T.'s health condition was critical. She was said to have been on hunger strike for 17 days to protest her detention. Her family had appealed to the police in Guangzhou city to have an investigation into the legality of her detention, and was calling for her immediate release. Allegedly, no action had been taken as of 15 March 2004. It is believed that Y.T. was detained in connection with her Falun Gong beliefs. Reports indicated that she had been detained previously, including for a three-year period for re-education, for this reason. During this time, she was reportedly subjected to physical and psychological torture. It is reported that due to the ill-treatment in detention, her legs were injured and she was unable to walk. In view of the alleged detention of Y.T. and allegations of torture and ill-treatment while she was previously in detention, concern was expressed for her physical and psychological integrity. Concern was also expressed for her family, who has allegedly been told that they should not report the case to the international community.

Government reply

70. By letter dated 10 June 2004, the Government reported that in April 2002, Y.T., a 37-year-old female Falun Gong practitioner from Haizhu district in Guangzhou, was ordered, in accordance with the law, to undergo labour re-education for having twice disrupted public order. In August 2003, she was released from re-education. In February 2004, the local government sought to re-educate Y.T., but she resisted by undertaking a hunger strike. According to the Government, the local authorities actively endeavoured to save her life. They also stated that Y.T. was in excellent health.

Urgent appeal

71. On 30 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the right to the highest attainable standard of physical and mental health, and the Special Rapporteur on torture, regarding **L.M.**, aged 36, resident of Donggang city, Liaoning province. She was reportedly held in Dabei Prison in Shenyang city. On 10 March 2004, a relative who visited her reported that she was carried to the visiting room wearing a large gauze mask, and that she was extremely weak and thin. It is reported that the guards immediately stopped the meeting when she said that she was dying, and since then, no information on her situation had been available. It is reported that L.M. and her husband were arrested on 9 April 2002 and sentenced to 13 years in prison for producing and distributing materials about the alleged persecution of Falun Gong. Since her arrest and detention at the Dandong City Police Station, and subsequently at the Dandong Detention Centre and later Dabei Prison, L.M. had reportedly been tortured in an attempt to force her to give up Falun Gong. The methods of torture and ill-treatment alleged include electric shocks all over the body and beatings on her head with hard plastic baton handles. It was further alleged that she had been denied adequate medical attention and as a consequence she had suffered, among other things, high fevers which had damaged her lungs. Her health had reportedly continued to deteriorate. In view of the allegations of torture and the reported state of her health, concern was expressed for the physical and mental integrity of L.M. if she did not receive prompt and adequate medical attention.

Urgent appeal

72. On 15 July 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the right to the highest attainable standard of physical and mental health, and the Special Rapporteur on torture, regarding **G.J., C.Y., Y.S., G.B.** and **S.Y.** According to the information received, in 2000, G.J., a resident of Luozhuang hamlet, Chengbo village, Mengzhou city, Henan province, was arrested at home and taken to a detention centre, together with her 8-month-old child, by the "610 Office" in Mengzhou city and officers from the Mengzhou city Police Station (whose names are known to the Special Rapporteurs). She is said to have been arrested because she is a Falun Gong practitioner. On 25 May 2002, after Ms. G.'s release, police officers (whose names are known to the Special Rapporteurs) took her to the police station, without a warrant. Ms. G. was again pregnant at the time. It is alleged that the police officers forced her to have an abortion so that she could be sent to a labour camp. They are said to have forcibly given her an injection to induce the abortion, watched the procedure and mocked her when she was in pain. Then she was sent to a detention centre in Jiaozuo city, Henan province. Later, she was transferred to the Shibalihe Labour Camp where she was still detained on 15 July 2004. Furthermore, it was reported that Ms. G.'s father, **G.X.**, her mother, **S.G.**, elder sister, **G.X.**, and brother, **G.H.**, had also been detained many times because they practised Falun Gong.

73. In April 2001, **C. Y.** aged 46, resident of Xiaohaidi in Tianjin city Hexi district, was taken from her home and sentenced to two years of forced labour at the Tianjin City Jianxin Women's Forced Labour Camp No. 3 Squadron of the No. 6 Brigade, where she was tortured. On 13 May 2002, Ms. C. practised Falun Gong exercises in the labour camp and, as punishment, the camp police confined her to a small dark room where they beat her and trampled on her arms. Then they handcuffed each of her arms to a bed, stretching her out spread-eagled. She remained handcuffed this way for 23 days. On 6 April 2003, C.Y. and another Falun Gong practitioner tore down the anti-Falun Gong slogans posted inside the Squadron. As a result, the guards dragged them into a room where they stripped them down to their underclothes and tied up their hands. Then the guards dragged them into the hallway and ordered them to kneel down. When they refused, six policemen (including officers whose names are known to the Special Rapporteurs) used six electric batons simultaneously on C.Y. One policeman used the electric baton on her genitalia for 20 minutes. Then they did the same to the other female prisoner. They then shocked Ms. C. again with electric batons all over her body, to the point that her teeth became loose. For more than one month afterwards, her right arm was paralyzed. On 15 July 2004, her whereabouts were unknown.

74. **Y.S.**, in her 50s, was arrested by the Tianjin city, Heping district Public Security Bureau in November 2000 because she refused to give up Falun Gong. She was taken to a police station where policemen violently slapped her face. She was sentenced to 2 ½ years of forced labour and detained at the No. 4 Brigade of the Banqiao Women's Forced Labour Camp in Tianjin city. On 1 June 2001, Ms. Y. was transferred to the Tianjin city Jianxin Women's Forced Labour Camp No. 3 Squadron of the No. 6 Brigade. Because she refused to renounce Falun Gong, the female camp guards deprived her of sleep, allowing her as little as two hours of sleep per day. In protest, Ms. Y. went on a hunger strike for 12 days. Subsequently, the camp extended her term of detention. On 1 April 2003, the No. 3 Squadron attempted to brainwash Ms. Y. The camp policewomen dragged Ms. Y. into a tiny, dark room and hit her all over her body with electric batons. They exposed Ms. Y.'s body in front of the camp's male discipline instructors to

demonstrate their electric baton torture. Then they confined Ms. Y. to a 1.6 ft x 1 ft x 5 ft wooden cage where the 5-foot-7-inch tall Ms. Y. was forced into a crouched position. Ms. Y. was subjected to this treatment for eight days. Afterwards she had significant muscular and skeletal problems. On 15 July 2004, her whereabouts were unknown.

75. **B.**, in her 30s, a resident of Tonggu district, Tianjin city, was arrested by the police who tied her up and subjected her to physical punishment because she refused to read anti-Falun Gong articles. They then confined her to a wooden cage for more than a month. Ms. G. went on a hunger strike for 37 days to protest this persecution. During her hunger strike she was handcuffed and tied up, and afterwards she was put in solitary confinement for more than a month. Still refusing to abandon Falun Gong, police handcuffed her to a radiator, then handcuffed her spread-eagled between two radiators. Still later, the police handcuffed her and suspended her by her wrists, and subjected her to further torture. On 1 April 2003, the police shocked Ms. G. with several electric batons simultaneously. Then they put her in a wooden cage for several days. On 15 July 2004, her whereabouts were unknown.

76. On April 15, 2002 **S.Y.**, a resident of Lianjiangkou, Jiamusi city, Heilongjiang province, was arrested at her brother's house by local police because she was a Falun Gong practitioner. She was sent to Lianjiangkou Detention Centre and two weeks later transferred to the Jiamusi Labour Camp. Upon her arrival at Jiamusi, she was tortured and forced to undergo brainwashing. In July 2002, the labour camp guards forced her to sit on a small stool and watch anti-Falun Gong videos. When she refused to watch, a guard (whose name is known to the Special Rapporteurs) dragged her downstairs and handcuffed her to a bed. She began a hunger strike to protest the treatment received, so the guards force-fed her milk with salt, which was extremely painful. They subjected her to this treatment for seven days. In November 2002, guards forced Ms. S. to sit on a stool with sharp triangular ridges across its surface for more than 10 hours a day. They made her put both hands on her thighs and did not allow her to move. Eventually, the skin of her buttocks tore and began to bleed. Meanwhile, she was monitored by several guards brandishing electric batons. Each time she moved, they shocked and beat her simultaneously. When she refused to read an anti-Falun Gong article, they beat her again. At the end of November 2002, because Ms. S. still refused to watch the videos, a guard (whose name is known to the Special Rapporteurs) cuffed her to a bed in an awkward, asymmetrical position, her hands tied to two different steel bars. She was cuffed in the same position for two weeks. The conditions in Jiamusi Labour Camp are very unsanitary, and for a long time Ms. S. was not allowed to bathe. By February 2003, she had developed scabies, which prevented her from sleeping. At one point the guards sprayed her with a chemical that caused her severe chest pains and rendered her unable to move her head or hands. One morning in May 2003, Ms. S. began to practice the Falun Gong exercises. As soon as she was seen, two guards (whose names are known to the Special Rapporteurs), rounded up some other inmates and they all beat her together. Then they dragged her to the second floor, where they forced her to sit on a cold cement floor with her hands cuffed behind her back for ten days. The nights were bitter cold, and she was deprived of sleep. On the tenth day, guards (whose names are known to the Special Rapporteurs) cuffed her hands in a forced backbend position (one arm is reaching down the back behind the head and the other hand meeting it from the lower back). She was subjected to this treatment for 13 days. After her hands were released, she was unable to move her arms and could barely walk. In June 2003, a guard (whose name is known to the Special Rapporteurs) slapped her face so hard that she temporarily lost her hearing. Ms. S. was not released after her term

expired. On 15 July 2004, she was still being detained in the labour camp, and her health was in a critical condition.

Urgent appeal

77. On 12 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on torture, regarding **M.H.** According to the allegations received, she was currently detained in the Shanghai Women Re-education through Labour Camp located in Shanghai Qingpu district, where she had been tied up, suspended from the ceiling and severely beaten. On 20 April 2004, she was sent there by police in Shanghai, to undergo 18 months of "re-education through labour" because of her persistence in petitioning the authorities about a labour dispute and the treatment she had suffered at the hands of the police. M.H. was detained several times on account of these activities, and forcibly confined in psychiatric units where she was forced to undergo shock therapy. Her daughters, both under the age of 18, were also reportedly detained repeatedly by police and questioned about who is assisting their mother with her petitions. M.H. was dismissed from her job in 1988, when she refused to undergo an abortion in violation of the State's family planning policies.

Follow-up to previously transmitted communications

78. By letter dated 12 January 2004, the Government provided information on the following cases contained in a letter dated 8 July 2003, sent jointly with the Special Rapporteur on torture (E/CN.4/2004/66/Add.1).

(a) Concerning **J.Z.** (ibid., para. 25), the Government stated that in March 2000 she was placed in security detention for 15 days, in accordance with the law, for disturbing social order. While in detention, she concealed her pregnancy and went on a hunger strike, resulting in signs of a miscarriage. The public security authorities then took her to the hospital to be checked and treated. According to the Government, J.Z. herself had expressed indignation at the libellous statement that the public security authorities beat her until she miscarried;

(b) Concerning **L.Y.** (ibid., para. 26), the Government indicated that in February 2000 she was placed in criminal detention by the public security authorities on suspicion of using a heretical organization to undermine the law of the State and commit crimes. When it was later discovered that she was pregnant she was released on bail. In July 2000 she gave birth to a son. According to the Government, mother and child are now currently doing well. The allegation that L.Y. was forced to have an abortion does not tally with the facts;

(c) Concerning **W.S.** (ibid., para. 28), the Government stated that in July 2000 she was placed in criminal detention on suspicion of disturbing the social order. While in custody, she miscarried and the public security authorities released her on bail, in accordance with the law. According to the Government, W.S. was not forced to have an abortion while in custody;

(d) Concerning **W.X.** (ibid., para. 29), the Government indicated that in February 2000, she was ordered by the labour re-education committee in Bameng, Inner Mongolia, to serve two years' labour re-education for disturbing the social order. At the time of her medical examination upon entering the facility, W.X.'s condition showed nothing unusual. On 13 July 2000 she

complained of a pain in her abdomen, whereupon the medical centre of the Inner Mongolia Prison Administration determined that she was pregnant. In accordance with the relevant laws and regulations, the labour re-education facility placed W.X. under the supervision of the Bameng public security authorities in Linhe on 31 July 2000. In September 2000 she gave birth to a baby boy. After her delivery, she went to other parts of the country to engage in activities that disturbed the social order. On 6 March 2001 she was placed in criminal detention by the Xincheng branch office of the Hohhot public security authorities on suspicion of organizing and using a heretical organization to undermine the law and commit crimes; on 31 July 2001 the Xincheng District People's Procuratorate in Hohhot upheld the arrest and she was subsequently released on bail with restricted liberty. On 25 September 2002 W.X. was captured by the Baotou public security authorities after illegally leaving her place of residence. Because her action violated the Criminal Law of the People's Republic of China and the Explanation of the Supreme People's Court and the Supreme People's Procuratorate regarding Questions relating to the Concrete Application of Laws in Handling Criminal Cases of Organizing and Using Heretical Organizations (2), she was sentenced in accordance with the law to seven years' imprisonment. An investigation showed that while W.X. was serving her sentence, the labour re-education authorities ran the facility in a strictly scientific and civilized manner; they never beat her or subjected her to ill-treatment, and there was no injection of abortifacient drugs;

(e) Concerning **Z.G.** (ibid., para. 30), the Government indicated that on 1 September 2001 she was ordered to serve three years' labour re-education for having gone to Beijing to cause a disturbance and disrupt the social order. During this time she became obsessed with a heretical organization and her health deteriorated. On 28 December 2001 the correctional facility sent her on an emergency basis to the hospital to see a doctor. However, she would not cooperate with the treatment, and her condition worsened. Pursuant to an authorization issued on 30 January 2002, and with her sister as guarantor, Z.G. was admitted to the local hospital for treatment. On 24 April 2002 she jumped from the building to her death in the presence of her family members. The allegation in the letter that Z.G. was subjected to such forms of torture as electric shocks and beatings does not tally with the facts;

(f) Concerning **Y.P.** (ibid., para. 31), the Government stated that in March 2000 she was taken into custody by the national public security authorities in Beijing for disturbing the social order. After the public security authorities discovered that Y.P. was pregnant they took the necessary steps to have her released on bail, in accordance with the law. According to the Government, she was not forced to have an abortion while in custody;

(g) Concerning **Z.W.** (ibid., para. 32), the Government indicated that in February 2001 Z.W.'s husband, W.D., was sentenced by the Changzhou labour re-education committee to serve two years' labour re-education for having engaged, together with Z.W., in activities that disturbed the social order. The judicial authorities took into consideration the fact that Z.W. was pregnant and did not sentence her. According to the Government, the allegation that she was forced to have an abortion is a fabrication;

(h) Concerning **B.L.** (ibid., para. 33), the Government indicated that she was ordered to serve one year's labour re-education for disturbing the social order. Because B.L.'s behaviour was relatively good, she was given an early release from labour re-education on 20 November 2000. According to the Government, the allegation that she suffered ill-treatment and went deaf while in the labour re-education facility does not tally with the facts;

- (i) Concerning **Z.B.** (ibid., para. 33), the Government stated that in March 2000 she was ordered to undergo labour re-education for one year for having participated in the activities of a heretical organization and disturbing the social order. On 20 November 2000 she was given an early release. Following her release, Z.B. was ordered to serve a further three years' labour re-education for disturbing the social order. Because her behaviour while in labour re-education was relatively good, she was given an early release on 8 November 2002. According to the Government, the allegation that she was subjected to ill-treatment is pure fabrication;
- (j) Concerning **L.N.** and **W.X.** (ibid., para. 35), the Government indicated that in July 2000 they were arrested in Beijing for assembling and creating a disturbance, and following re-education they were released. According to the Government, the two women were not subjected to ill-treatment while in custody as alleged;
- (k) Concerning **L.Y.** (ibid., para. 36), the Government indicated in October 2000 that she was placed in criminal detention by the national public security authorities, in accordance with the law, for having gone to Beijing to create a disturbance. While she was in detention the public security authorities discovered that L.Y. was pregnant, whereupon they released her on bail. According to the Government, the allegation that L.Y. suffered ill-treatment while in detention does not tally with the facts;
- (l) Concerning **Y.J.** (ibid., para. 37), the Government indicated that in October 2000 she was arrested by the national public security authorities and was released following re-education. During this process the public security officers consistently enforced the law in a civilized manner and in accordance with the law; at no time was Y.J. subjected to degrading treatment or ill-treatment;
- (m) Concerning **L.S.** (ibid., para. 38), the Government stated that in December 2000 she was arrested for going to Beijing to assemble and create a disturbance. She was ordered to serve one year's re-education through labour by the Beijing municipal labour re-education committee. She has since been released and her health is good. According to the Government, the allegation that she was subjected to ill-treatment while in labour re-education does not tally with the facts;
- (n) Concerning **G.P.** (ibid., para. 43), the Government indicated that in October 2000 she was arrested for disturbing the social order. Because she was nursing a newborn infant, her work unit took her back for re-education. She subsequently grew obsessed with a heretical organization, became mentally unbalanced and disappeared. After being found by relatives she was sent to the hospital for treatment for three months. After leaving the hospital G.P. returned to her original work unit. According to the Government, the allegations that she was given electric shocks and subjected to mental harassment are pure fabrication;
- (o) Concerning **C.Y.** (ibid., para. 44), the Government stated that in April 2000 she was ordered to serve one year's labour re-education for having participated in the illegal activities of a heretical organization and disturbing the social order. After entering the labour re-education facility, she created a disturbance and her term of re-education was extended by 6 months and 27 days, in accordance with the law. On 9 September 2001 she was released, at which time her health was good. An investigation revealed that the labour re-education facility was run in a

civilized manner, in accordance with the law, and that C.Y. was not subjected to any electric shocks or other ill-treatment or punishment;

(p) Concerning **W.H.** (ibid., para. 45), the Government indicated that in June 2001 she was placed in criminal detention by the national public security authorities for engaging in activities that disturbed the social order in Lanzhou. When the public security authorities learned that she was pregnant, they had her placed under house arrest. She has since returned to her original work unit. According to the Government, the allegation that she was forced to have an abortion does not tally with the facts;

(q) Concerning **Y.D.** (ibid., para. 48), the Government stated that in October 2001 she was ordered by the Jingzhou labour re-education committee in Hubei province to serve one year's labour re-education for disturbing the social order. On 11 October 2002, she completed her term of re-education and she was released; the people's police at the labour re-education facility ran the facility in a civilized manner at all times, in accordance with the law. According to the Government, at no time did they beat or verbally harass Y.D. or inflict corporal punishment or ill-treatment;

(r) Concerning **Z.J.** (ibid., para. 48), the Government stated that in October 2001 she was ordered by the Jingmen labour re-education committee in Hubei province to serve one year's labour re-education. Throughout her re-education the people's police ran the facility in a civilized manner, in accordance with the law; at no time did they beat or verbally harass Z.J., inflict corporal punishment or subject her to ill-treatment. Z.J. completed her term of labour re-education on 11 October 2003.

79. As no detailed information regarding **L.X.** (ibid., para. 24), **L.M.** (ibid., para. 27), **H.R.** (ibid., para. 40), **L.X.** (ibid., para. 41), **G.X.** (ibid., para. 42), **W.Y.** (ibid., para. 47), **D.J.** (ibid., para. 34), **Xu** (ibid., para. 46) and **Shi** (ibid., para. 39) was provided in the letter, the Chinese Government has been unable to look into their cases despite having conducted many searches.

80. By letter dated 18 March 2004, the Government provided information concerning **L.Q.** (E/CN.4/2004/66/Add.1, para. 50). From September 2003 onward, she engaged wantonly in heretical propaganda activities, buying a computer, a mimeograph, a paper-cutting machine, etc. and downloading, creating, distributing and mailing propaganda material. At the same time, she was also giving other heretical elements within the country financial support for conducting illegal activities. Her conduct being in breach of Chinese law, the Chinese law enforcement authorities detained her for investigation on 2 November pursuant to article 300(1) of the Penal Code, and section 2 of the interpretation by the Supreme People's Court and the Supreme People's Procuratorate of certain questions regarding the specific law to apply to the offences of running, establishing and exploiting heretical organisations. Her residence was searched in accordance with the law, and large quantities of heretical material were found. During the investigation, L.Q. confessed to all of her illegal activities. As she had confessed her crimes and displayed a good attitude, the law enforcement authorities decided, on the basis of the relevant laws, not to press charges, and on 22 December 2003 the investigation into L.Q. was closed.

81. By letter dated 18 March 2004, the Government provided information concerning cases contained in an urgent appeal sent jointly with the Special Rapporteur on torture on 14 November 2003 (E/CN.4/2004/66/Add.1):

- (a) **Y.F.** (ibid., para. 51). According to the Government, she was assigned to one year's re-education through labour in October 2000 for travelling to Beijing and collectively creating trouble and disrupting the social order. While she was at the re-education facility the People's Police gave her a patient, painstaking education and never employed physical abuse or torture. Y.F. was discharged in June 2001. In November 2002, she was detained by the local public security organs, in accordance with the law, for involvement with the Falun Gong heretical movement and on suspicion of committing a crime, was educated and set free. Since then, the public security organs have not taken any further coercive action against her, and while in custody Y.F. was never tortured. The claims in the communication that she was brutally beaten and paid bail to be released, etc. are sheer fabrications;
- (b) Her 16-year-old daughter (ibid.) **D.L.**, aged 19. The Government stated that she was detained in October 2000 on suspicion of involvement in the exploitation of a heretical organization to obstruct the enforcement of the law, and released after education. She was detained again in December 2003 on suspicion of exploiting a heretical organization to obstruct the enforcement of State law. D.L. was assigned to two years' re-education through labour on 6 January 2004;
- (c) **T.L.** (ibid.). The Government stated that in February and June 2000 she twice went to Beijing and collectively created trouble, disrupting the social order, and was subjected to public-security penalties by the public security organs. In May 2002, calling herself Hong Fa ("Great Law"), she caused a disturbance in a public place, severely disrupting the social order. When summoned to court by the public security organs in accordance with the law, she threatened to kill herself by jumping out of the window before being successfully restrained. While the public security organs were investigating her, T.L. took the prison staff by surprise and deliberately banged her head into the ground, thus suffering a contusion of the cervical area and paralysis. She is now convalescing at home. During the handling of this case, the public security organs have never inflicted any kind of beating or torture upon T.L. According to the Government, the claim that she was subjected to torture is false;
- (d) **C. Y.** (ibid.). According to the Government, on 8 May 2003 she downloaded a large quantity of Falun Gong propaganda from the Falun Gong web site which she circulated at school and in her neighbourhood; the public security organs detained her in accordance with the law on suspicion of exploiting a heretical organization to obstruct the enforcement of the law. While under investigation, C.Y. twice went on hunger strike, reaching a point where she was physically severely weakened. On medical advice, the public security organs decided on 13 October to release her on bail and defer the proceedings. According to the Government, C.Y. is still at home and her physical condition is now normal. The claim that she was tortured while in custody is not true.

Observation

82. The Special Rapporteur would like to thank the Government for its responses. However, the Special Rapporteur expresses her concerns over the numerous allegations which continue to be received of ill-treatment of Falun Gong practitioners in detention. She would like to remind the Government that it has a duty to prevent violence against women, investigate the allegations, prosecute the perpetrators and provide compensation to the victims.

Colombia

Carta de alegaciones

83. Por carta con fecha de 25 de marzo de 2004, la Relatora Especial, juntamente con el Relator Especial sobre la tortura notificó al Gobierno que había recibido información sobre los casos individuales siguientes:

84. **E. M.** habría sido violada el 16 de diciembre de 2002 cuando el vehículo en el que viajaba con su familia desde la vereda La Pavita hacia el casco urbano del municipio de Saravena, departamento de Arauca, habría sido interceptado por dos hombres armados y con pasamontañas. En la zona en la que habrían ocurrido los hechos sería casi permanente la presencia del Ejército que protege el oleoducto Caño Limón-Coveñas, y no habría guerrilla ni delincuencia. Los hombres armados habrían obligado a los pasajeros a descender del vehículo y a tenderse en el suelo bocabajo y les habrían robado todas sus pertenencias. E. M. habría sido amenazada de muerte con un arma, forzada a alejarse del grupo y violada. Se alega que dos soldados se encontraban en una tienda próxima a donde se habría producido la agresión. Estos hechos habrían sido denunciados ante la Fiscalía de Saravena. Dos soldados de la patrulla que estaban ese día en la zona habrían sido capturados y detenidos en el Batallón Revéz Pizarro. Se habría pedido a las personas agredidas que fueran a reconocerlos, pero éstas se habrían negado por temor a ser identificados por los soldados del Batallón.

85. **M. L. M. R.** habría sido golpeada repetidamente por unos hombres vestidos de civil, supuestamente acompañados por agentes policiales, que habrían irrumpido en su casa en el municipio de Flandes, departamento del Tolima, el 6 de febrero de 2003. Habría sido golpeada en los pechos, le habrían pegado con la culata de una pistola en la cabeza, le habrían dado patadas y la habrían estirado del cabello. Después habría sido introducida en un vehículo particular con cinco agentes y le habrían colocado una bolsa en la cabeza. Al tiempo que le habrían apretado la bolsa a la altura del cuello, la habrían golpeado en el estómago. Más tarde, habrían conectado un cable en el encendedor eléctrico y se lo habrían aplicado en el tórax y bajo las axilas. Posteriormente, le habrían levantado la blusa y desabrochado el pantalón, tocado los senos y los genitales y amenazado con violarla. Bajo amenazas de muerte, habría confesado ser una guerrillera. Habría sido conducida a instalaciones del Servicio de Inteligencia de la Policía (SIJIN), donde la habrían amenazado con hacerla desaparecer junto a su familia si no colaboraba. Más tarde, los agentes le habrían ofrecido acogerse al programa de reinserción y sacarla del país. Durante el primer día de detención, habría sido privada de beber y comer y habría pasado la primera noche en una silla esposada a una baranda. 27 días después de su detención habría sido trasladada a una cárcel.

86. **Cuatro mujeres** de San Benito Abad, Sucre, habrían sido víctimas de violación sexual por parte de paramilitares de las Autodefensas Unidas de Colombia (AUC). Los hechos habrían ocurrido el 23 de agosto de 2002, cuando un grupo de aproximadamente 60 paramilitares habrían incurrido en el casco urbano de esta población y, tras intimidar a sus pobladores, habrían violado a cuatro mujeres en presencia de sus hijos. En los mismos hechos habrían causado heridas a un número indeterminado de campesinos y habrían saqueado las tiendas y viviendas de la población. Estos hechos habrían causado el desplazamiento forzado de aproximadamente 50 familias. El Instituto de Bienestar Familiar habría enviado una comisión para verificar los

acontecimientos y habría encontrado que la población se encontraba en un estado de profunda crisis psicológica, estrés postraumático y ansiedad generalizada.

Respuesta del Gobierno

87. Por carta de fecha 1 de Septiembre de 2004 el Gobierno proporcionó las siguientes informaciones:

(a) En relación a **E. M.**, el Gobierno informó de que la Fiscalía de Saravena inicio la investigación de los hechos denunciados, a saber, hurto calificado y agravado y acceso carnal violento agravado. El mismo Ejercito Nacional facilito el informe sobre el que se inicio la investigación y detuvo a soldados voluntarios por presunta participación en los hechos. Posteriormente fueron puestos a disposición de la Fiscalía donde fueron escuchados en diligencia de indagatoria. Hay constancia de las denuncias realizadas por particulares y entre ellos la afectada. Respecto a los militares detenidos la situación fue resulta imponiéndoles detención preventiva sin derecho a libertad provisional. Tras el recurso interpuesto ante la fiscalía Delegada, los procesados fueron puestos en libertad y mediante resolución del 19 de Agosto de 2003 la Fiscalía dispuso calificar el merito del sumario y precluir la investigación, decisión que en la actualidad se encuentra en firme.

(b) En relación a **M. L. M. R.**, el Gobierno informó de que se iniciaron las correspondientes tareas de verificación ante la Fiscalía de Ibague y no se encontró denuncia alguna al respecto.

(c) En relación al caso del **corregimiento de Santiago Apóstol del municipio de San Benito Abad**, el Gobierno informó de que se inicio el proceso a cargo del Fiscal Primero Especializado y que en la actualidad se encuentra en fase de investigación previa. En el mismo no se registra ni se hace mención a la posible violación de cuatro ciudadanas. Todas las indagaciones efectuadas por el Fiscal a través de las inspecciones de policía, Fiscalías locales y el manuscrito allegado por el personero municipal han obtenido resultados negativos en cuanto a que no existe constancia de presuntas agresiones sexuales cometidas por parte de las autodefensas el 23 de Agosto de 2003. Se pudo constatar que con todas las autoridades que los hechos investigados conciernen a los delitos de hurto y amenaza a la población civil, pero no a la violación sexual de la que presuntamente fueron victimas cuatro mujeres oriundas de esa población.

Carta de alegaciones

88. Por carta con fecha de 25 de marzo de 2004, la Relatora Especial, juntamente 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 tortura, notificó al Gobierno que había recibido información según la cual **M. C.**, integrante del Partido Comunista y militante de la Unión Patriótica (UP), habría sido víctima de maltratos verbales y físicos, así como de violencia sexual el 10 de diciembre de 2002 cuando su vivienda en Bogotá habría sido allanada por unos 80 hombres presuntamente miembros de la Policía Metropolitana. Sus hijos también habrían sido víctimas de maltratos verbales y físicos.

Respuestas del Gobierno

89. Por cartas con fechas de 24 de junio y 27 de julio de 2004, el Gobierno contestó que el 18 de diciembre de 2003, la investigación por presunto allanamiento ilegal a su residencia fue remitida a la Fiscalía Bernal de la Nación. Las diligencias todavía se encontraban en etapa de indagación preliminar, para el esclarecimiento de los hechos y determinar la presunta participación de servidores públicos.

Carta de alegaciones

90. Por carta de fecha 5 de mayo de 2004, la Relatora Especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la tortura, notificó al Gobierno que recibió información según la cual **O. F.**, una menor de 16 años de edad, quien se encontraba en estado de embarazo, habría sido violada y asesinada el 5 de mayo de 2003 en la inspección de policía de Betoyes del municipio de Tame, Arauca. También le habrían extraído el feto de seis meses, desmembrándolo y arrojándolo al río junto a ella. En los mismos hechos habrían sido ejecutados los indígenas **D. L. S. (m)**, **N. D. (m)** y **S. L. S. (m)**. Asimismo, **M. L. D.** y **N. F.** habrían sido heridos y **M. F.** y otras dos niñas violadas. Los presuntos autores de los hechos serían miembros del Batallón Navas Pardo, adscrito a la Brigada XVIII del Ejército Nacional. Tras incidentes como este, más de 500 personas de las poblaciones de Betoyes, Flor Amarillo y Santo Domingo y de las comunidades indígenas de Rokeros, Parreros II, Velazqueros y Julieros se habrían desplazado hacia Saravena y la Casa Indígena de Tame, la cual habría sido objeto de filmaciones por miembros del Grupo Mecanizado Revéz Pizarro del Ejército, quienes habrían registrado a las personas de la casa indígena.

Respuesta del Gobierno

91. Por carta con fecha de 23 septiembre de 2004, el Gobierno proporcionó las siguientes informaciones: El desplazamiento forzado está investigado por la dirección seccional de la fiscalía de Cúcuta. Además se solicitó al comando del ejército nacional adoptar medidas de seguridad que permitieran el restablecimiento del orden público en esa región. La muerte de **N. D.** está en etapa de investigación preliminar en la unidad de la seccional de Cúcuta de la Fiscalía. La investigación de la muerte de **D. L. S.** demuestra que no había tropa del batallón Navas Pardo cuando ocurrió su homicidio y que existe un control riguroso de los movimientos diarios de la tropa. No se ha podido ubicar el paradero de los cadáveres de varias presuntas víctimas, como **O. F.** y **D. L. S.** y su existencia, ante la falta de registros oficiales de identidad se fundamenta en las declaraciones juradas de varios habitantes de la zona, entre quienes no existe tampoco uniformidad sobre lo ocurrido. La investigación apunta a los diversos hechos violentos fueron producto del paso de las Autodefensas por Betoyes al combatir con guerrilleros.

Carta de alegaciones

92. Por carta de fecha 5 de mayo de 2004, la Relatora Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la tortura, notificó al Gobierno que había recibido información según la cual **F. G. (m)** habría sido asesinado por un soldado el 2 de octubre de 2002 en su casa en la vereda Las Bancas, municipio

de Arauquita. Su mujer, **I. P. P.**, habría sido obligada a pasar la noche junto al cadáver de su marido después de ser violada bajo amenazas de muerte por el soldado. Los hechos habrían sido denunciados ante la Fiscalía Única Seccional Saravena. El soldado quien supuestamente cometió los delitos habría sido trasladado a un recinto militar de donde se habría escapado a los pocos días.

Llamamiento urgente

93. El 24 de agosto de 2004, la Relatora Especial, juntamente con el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, y el Relator Especial sobre la tortura, envió un llamamiento en relación con **dos niñas de 16 y 17 años** del municipio de Sansón, departamento de Antioquia. Las dos niñas habrían sido abordadas por miembros del personal militar adscrito a la IV Brigada del Ejército Nacional el 15 de julio de 2004. Los militares les habrían tapado la boca, cogido de los pies y las manos, las habrían introducido violentamente en la camioneta y conducido en un lugar despoblado. Allí, las habrían desnudado, abusado sexualmente y violado. Tras denunciar la agresión, una de las niñas había sido objeto de amenazas e intimidaciones. También se habría interpuesto una denuncia en relación con estas amenazas e intimidaciones. De acuerdo con las informaciones recibidas, el Comandante de la unidad militar acantonada en Sansón habría manifestado que había tomado la determinación de destituir a un soldado profesional que participó en la agresión y que tenía bajo investigación a siete soldados regulares. El Comandante ofreció indemnizar a las víctimas con una suma de 150.000 pesos mensuales durante un periodo de ocho meses.

Respuesta del Gobierno

94. Por carta con fecha de 8 de diciembre de 2004, el Gobierno proporcionó las siguientes informaciones: El 30 de agosto 2004, la investigación habría sido remitida a los Fiscales Especializados de la dirección Seccional de Medellín. La investigación por los hechos alegados se adelantaría actualmente bajo el despacho del Fiscal Especializado Destacado ante el Guala Oriente. Así mismo el Departamento Administrativo de Seguridad DAS, en consideración a que los hechos denunciados fueron presuntamente cometidos por miembros militares de la Brigada IV del Ejército Nacional, habría dado traslado de su solicitud a la Oficina de Derechos Humanos de Ministerio de Defensa Nacional el 6 de septiembre 2004. El Gobierno proporciona también información al respecto de los elementos actualmente contenidos en la petición como, entre otros, las denuncias formuladas el 6 de agosto 2004 ante el despacho, los reconocimientos médicos de las dos niñas, un informe suscrito por le M. W. R. Del V. refiriéndose al personal de soldados que se encontraba en el casco urbano de este Municipio el 15 de julio de 2004, la resolución del 30 de agosto del 2004 ordenando la remisión de la investigación a la Fiscalía Especializada. Finalmente, el Gobierno afirma que seguirá atento al resultado de las investigaciones que se adelanten, respecto de lo cual se informará oportunamente al Relator Especial.

Observación

95. La Relatora Especial agradece el Gobierno por sus respuestas. Sin embargo, quisiera obtener información adicional sobre las investigaciones en curso.

Costa Rica

Carta de alegaciones

96. Por carta con fecha de 7 de julio de 2004, la Relatora Especial conjuntamente con el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía manifestaron su apoyo a la iniciativa de ley para impedir los matrimonios de personas menores de 15 años de edad, proyecto que, según la Oficina de Iniciativa Popular del Congreso, ocupa el lugar 88 del orden del día en el Plenario Legislativo. Para los relatores, el hecho de que la legislación costarricense permita que un abusador sexual contraiga matrimonio con una niña menor de 15 años, representa un portillo legal permisivo y una ventaja que los criminales pueden aprovechar. Según el Registro Civil de Costa Rica, en el año 2001 se habrían registrado 40 matrimonios de este tipo. El Código Penal de Costa Rica castiga las relaciones sexuales con una persona menor de 15 años. Entonces, una forma de evitar la cárcel podría ser de casarse con la niña.

97. Los relatores consideran que es importante agilizar la aprobación de ese proyecto de ley. Será una forma de proteger a la niñez, pero también un mecanismo para despojar a los abusadores de una herramienta legal que les permite actuar con impunidad.

98. Por eso, los relatores pidieron el apoyo del Presidente de la Asamblea Legislativa de Costa Rica a una iniciativa que, además, contó con el respaldo de miembros de todos los partidos políticos representados en el Congreso durante el período 1998-2002.

Llamamiento urgente

99. El 13 de agosto de 2004, la Relatora Especial juntamente con el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, y la Relatora Especial sobre los derechos humanos de los migrantes enviaron un llamamiento urgente sobre la situación de cuatro menores ecuatorianos, de edades comprendidas entre los 10 y 17 años, quienes habrían sido trasladados a mediados de julio de 2004 al Patronato de la Infancia (PANI) tras ser detectados por las autoridades de migración presentes en las zonas de Cañas Guanacaste y Corredores Puntarenas. Contando con la ayuda de agentes del tráfico de inmigrantes, los menores habrían viajado en avión hasta Panamá y se cree que pretendían continuar por tierra en dirección a los Estados Unidos.

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

Respuesta del Gobierno

101. Por carta con fecha de 27 de septiembre de 2004, el Gobierno contestó proporcionando la siguiente información :

102. **N. C. U.**, ecuatoriana, 17 años de edad, habría ingresado en el PANI, el 21 de julio de 2004 y deportada el 18 de agosto de 2004; **M. J. A. C.**, ecuatoriano, 16 años de edad, habría

ingresado en el PANI el 6 de agosto de 2004, y deportado el 3 de septiembre de 2004; **R. A. M. C.**, ecuatoriana, 17 años de edad, habría ingresado en el PANI el 6 de agosto de 2004, y deportada el 18 de agosto de 2004. En la provincia de Puntarenas (Corredores) todos los menores se habrían negado a prestar cualquier tipo de colaboración con las autoridades, se habrían negado a informar por qué estaban en Costa Rica, como llegaron al país, donde se hospedaron durante su estancia en el país, de donde venían, quienes colaboraron en su traslado hasta el país, cual era su destino final. Los menores habrían sido deportados luego de coordinar con el consulado de Ecuador para que se le tramitaran los documentos de identidad necesarios y que fueran recibidos en el aeropuerto por familiares previamente calificados o por el homólogo del PANI en dicho país. Lo anterior denotaría que los menores habrían sido entrenados en cuanto a cual debía ser su reacción ante una detención e indicaría que personas inescrupulosas utilizan el país como puente en el traslado de ilegales suramericanos. Las diversas instituciones relevantes del país estarían coordinando acciones para atacar este problema y velar por el bienestar de los menores de edad que se vean involucrados.

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

104. El 14 de julio de 2004, una vez que las acciones mencionadas hubieron sido realizadas, la Fiscalía habría solicitado el Juez Penal del Primer Circuito Judicial de San José, que procediera a entregar a los niños. Sin embargo, el 22 de julio de 2004, el Juzgado Penal habría emitido una resolución ordenando varias gestiones procesales adicionales y negando el pedido de devolución de los niños. Dicha resolución habría sido apelada por el PANI. Mientras el recurso de apelación indicado estaba todavía en trámite, el PANI habría sido notificado que el Representante de la Defensoría del Pueblo del Ecuador había interpuesto un recurso de Habeas Corpus ante la Sala Constitucional de la Corte Suprema de Justicia. El 24 de agosto de 2004 la Sala Constitucional habría ordenado el levantamiento de las medidas de protección dictadas a favor de los niños y del impedimento de salida del país, y habría ordenado al Juzgado Penal del Primer Circuito Judicial de San José que hiciera entrega inmediata de los menores, a aquella persona que tuviera autoridad y que ofreciera garantía de representación del Estado Ecuatoriano, a efecto que los menores fueron trasladados a su país.

105. En cumplimiento con la orden de la Sala Constitucional y con la resolución dictada en el 2 de septiembre de 2004 por el Juzgado Penal del Primer Circuito Judicial de San José, el PANI habría proseguido, el 3 de septiembre de 2004, a hacer la entrega formal de los niños al representante de la Defensoría del Pueblo de Ecuador, como apoderado de los padres de los

menores, y del representante del Estado de Ecuador. El 4 de septiembre de 2004 los menores habrían sido trasladados en avión a Quito donde serían recibidos por el Director General de Apoyo a los ecuatorianos en el Exterior y por la Primera Dama del Ecuador y Presidenta del Instituto Nacional de la Niñez y al Familia (INNFA).

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

107. Las informaciones proporcionadas por el Gobierno en relación a los otros niños se pueden encontrar en el informe del Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía (E/CN.4/2005/78/Add.3), y el informe de la Relatora Especial sobre los derechos humanos de los migrantes (E/CN.4/2005/85/Add.1).

Côte d'Ivoire

Lettre d'allégations

108. Par lettre en date du 26 mars 2004, la Rapporteuse spéciale, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, le Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée et le Rapporteur spécial sur la torture, a informé le Gouvernement qu'elle avait reçu des renseignements selon lesquels, le 25 mars 2004, de violentes manifestations à Abidjan, avec d'un côté les manifestants de l'opposition et de l'autre les forces de l'ordre et les milices progouvernementales, auraient fait de nombreuses victimes parmi les membres de l'opposition et les forces de l'ordre. Une vingtaine de personnes au moins aurait été tuées, des femmes et des fillettes auraient été violées, et des exactions à caractère ethnique auraient eu lieu. Des migrants auraient été arrêtés et seraient maintenus au secret. Les experts de la Commission des droits de l'homme ont également fait part de leurs inquiétudes quant au risque de prolifération d'armes, suite aux informations selon lesquelles des manifestants se seraient emparés d'armes appartenant aux forces de l'ordre. Des manifestations auraient également eu lieu à Yamoussoukro, Bouaké et Korhogo, d'autres étant prévues le 26 mars 2004. Les experts ont exprimé leur crainte que d'autres confrontations violentes n'aient lieu.

Communiqué de presse

109. Le 15 novembre 2004, la Rapporteuse spéciale a publié, 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 les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée, un communiqué de presse afin d'exprimer leur plus vive préoccupation face à la recrudescence des violences en Côte d'Ivoire depuis le 4 novembre 2004.

Les Rapporteurs spéciaux se sont notamment déclarés particulièrement inquiets des informations leur parvenant, faisant état de plusieurs morts et de nombreux blessés lors de manifestations

xénophobes qui s'étaient déroulées les jours précédents à Abidjan et de violences sexuelles contre des femmes et des jeunes filles qui auraient eu lieu aussi dans cette capitale.

Réponse du Gouvernement

110. Par lettre en date du 8 décembre 2004, le Gouvernement a répondu que des enquêtes étaient en cours, dont les résultats étaient attendus. Le Gouvernement a également répondu que le communiqué de presse comportait des insinuations qui portaient la marque et la mesure de l'instrumentalisation des droits de l'homme dans la guerre que subit la Côte d'Ivoire depuis deux ans. Selon le Gouvernement, des preuves irréfutables attestent que les morts et les blessés ne se comptent pas dans les rangs des cibles des « manifestations xénophobes » mais plutôt dans ceux des manifestants, patriotes et pacifiques, sur lesquels ont tiré les soldats de l'opération Licorne, pourtant placée sous mandat de l'ONU. Le Gouvernement a indiqué que les premiers auteurs de violations graves des droits de la personne sont les soldats de l'opération Licorne. S'agissant des actes qui auraient été dirigés contre des étrangers, le Gouvernement n'exclut pas quelques dérapages mais indique qu'ils n'étaient pas nécessairement caractéristiques de manifestations xénophobes. Le Gouvernement a également transmis aux Rapporteurs spéciaux un dossier de 15 pages intitulé « Violations des droits de l'homme en Côte d'Ivoire par l'armée française depuis le 6 novembre 2004 ».

Observation

111. La Rapporteuse spéciale remercie le Gouvernement pour sa réponse. Elle souhaiterait néanmoins obtenir des informations plus précises sur les enquêtes menées sur les allégations transmises, en particulier les allégations de viols et de violence sexuelle.

Democratic People's Republic of Korea

Urgent appeal

112. On 20 September 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture regarding **K.-S.J.**, a 24 year-old, national of the Republic of Korea. On 8 August 2004, she was abducted by four plain clothes security services personnel of the Democratic People's Republic of Korea near Budon village, Hwaryong city, Nampyongjin, Jilin province, of China. She was carried away in a large sack from the Chinese side of the Tumen River to the Korean side to an unknown location. Her husband managed to escape and has attempted to locate her, without success. In view of her alleged abduction and detention in an unknown location, concern was expressed that she might be at risk of torture or other forms of ill-treatment. Moreover, given that K-S.J. was reportedly pregnant, concern was expressed for her physical and mental integrity if she did not receive prompt and adequate medical attention.

Government reply

113. By letter dated 21 October 2004, the Government responded that according to an investigation, neither such incident nor any other similar act has occurred in the Democratic People's Republic of Korea-China border area before, during or after 8 August 2004.

Democratic Republic of Congo

Lettre d'allégations

114. Par lettre en date du 8 juillet 2004, la Rapporteuse spéciale, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires et le Rapporteur spécial sur la torture, a informé le Gouvernement qu'elle avait reçu des renseignements selon lesquels **B. M.** (m), agriculteur, **P. M.** (m), **N. N.** (m), **A. B.**, **G. M.** (m) et **X. N.** (m) auraient été torturés par des agents de la Direction générale des migrations (DGM) en janvier 2003 au cours de leur détention à Bunagana, dans le territoire de Rutshuru, province du Nord-Kivu. P. M. et N. N. seraient décédés des suites des traitements reçus. B. M. aurait été roué de coups et on lui aurait appliqué à plusieurs reprises un fer chaud sur le dos. Il aurait vu des corps d'hommes être extraits de la cavité souterraine dans laquelle les détenus étaient incarcérés. A. B. aurait été entièrement dévêtue. On lui aurait ensuite déposé de la poudre à canon sur la poitrine, à laquelle on aurait mis le feu, en ajoutant du plastique fondu pour intensifier la douleur. Ses ongles auraient été arrachés. G. M. aurait également eu un fer chaud appliqué sur le dos, et une lourde pierre accrochée à ses testicules. X. N. aurait été roué de coups, attaché et suspendu la tête en bas. Les survivants auraient été détenus jusqu'en mai 2003 sans avoir été jugés. Tous auraient été accusés de collaborer avec des opposants au Rassemblement congolais pour la démocratie – Goma (RCD-Goma). Une plainte officielle concernant des actes de torture aurait été déposée contre les présumés tortionnaires, mais de hauts responsables du RCD-Goma auraient bloqué toute enquête. Les personnes mentionnées ci-dessus ayant survécu à leur détention souffriraient depuis lors de graves problèmes de santé.

Lettre d'allégations

115. Par lettre en date du 20 juillet 2004, envoyée conjointement avec le Rapporteur spécial sur la torture, la Rapporteuse spéciale a informé le Gouvernement qu'elle avait reçu des informations sur les cas individuels suivants :

116. **B. E.**, âgée de 13 ans, résidant à Mboko, territoire de Fizi, province du Sud-Kivu, aurait été violée le 13 avril 2004 par un militaire du 92^e bataillon de la circonscription de Mboko. D'après les informations reçues, la fillette aurait été interpellée, alors qu'elle revenait de l'école aux environs de 14 heures, par ce militaire, dont les Rapporteurs spéciaux connaissent le nom. Le militaire aurait demandé à la fillette de puiser de l'eau et de ramasser pour lui des feuilles de manioc, et l'aurait conduite dans la brousse où il l'aurait violée. L'agression sexuelle aurait été confirmée par un infirmier du centre de santé de Mbeke où la fillette aurait été examinée juste après les faits. La fillette, l'infirmier et le militaire auraient été entendus sur les faits, et des procès-verbaux de ces auditions auraient été rédigés. Cependant, aucune action n'aurait été entreprise contre le présumé responsable du viol. En outre, des militaires auraient commencé à pourchasser la fillette et l'infirmier qui auraient été contraints de fuir à Kigoma en Tanzanie.

117. **P. F.**, 17 ans, aurait été violée par deux soldats à Kalemie (province du Katanga) en marge de la parade militaire organisée le 8 mars 2004 dans cette ville. D'après les informations reçues, la Commission Paix et Justice de la ville aurait apporté des soins médicaux et psychologiques à la jeune fille. Cependant, les autorités militaires et judiciaires n'auraient entrepris aucune action jusqu'au 17 mars, date à laquelle l'un des présumés responsables aurait été arrêté sur ordre du commandant de la 69^e brigade. Le 22 mars, des soldats auraient rendu

visite à la victime et l'auraient accusée d'être responsable des problèmes causés à leurs collègues. En outre, ils l'auraient menacée si elle ne faisait pas en sorte que les charges retenues contre eux soient retirées. Le 23 mars, par crainte de représailles, la jeune femme aurait fui. Au moment où ces informations ont été reçues, la jeune fille était rentrée dans son village. L'un des soldats serait toujours en état d'arrestation et le dossier, en instruction à l'auditorat militaire, aurait été transmis au parquet civil.

118. Peu de cas de violence sexuelle seraient effectivement portés devant le tribunal du territoire compétent en la matière. En outre, même quand ce tribunal est saisi, ces cas ne seraient pas pris en considération ou feraient l'objet d'un règlement amiable en échange d'une compensation financière.

119. Ainsi, le 7 janvier 2004, un homme aurait été arrêté pour avoir violé **une fillette de 14 ans** dans la ville d'Ubundu. Deux jours après, il aurait été relâché moyennant compensation financière de la victime et de sa famille.

120. Dans la ville d'Ubundu, les victimes de violence sexuelle se trouveraient dans une situation d'extrême précarité en raison de l'opprobre dont elles feraient l'objet au sein de la société, et ce du fait qu'elles seraient rejetées par leurs propres familles. D'après les informations reçues, aucune mesure n'aurait été prise pour que ces femmes aient accès à une assistance médicale et psychologique.

Lettre d'allégations

121. Par lettre en date du 21 juillet 2004, la Rapporteuse spéciale, conjointement avec le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires et le Rapporteur spécial sur la torture, a informé le Gouvernement qu'elle avait reçu les renseignements suivants :

122. Le 27 mai 2004, à Bukavu, des soldats appartenant à la dixième région militaire auraient attaqué des agences internationales. Les soldats auraient pénétré dans l'enceinte de l'une des organisations, tuant un homme et violant une femme.

123. **N. N. M.**, une femme du village de Lupongo, serait décédée le 19 février 2004 des suites de l'agression sexuelle qu'elle aurait subie de la part d'un membre de la police. D'après les informations reçues, le 7 février, N. N. M. aurait été battue et violée par un membre de la police qui l'aurait ensuite laissée grièvement blessée sur le bord de la route, sa vessie ayant été perforée. Informés de l'incident, ses deux fils auraient retrouvé le policier et l'auraient frappé. Quant à son mari, il serait allé au commissariat de police de Lubao rapporter les faits. Au commissariat, son incarcération aurait été immédiatement ordonnée au motif qu'il aurait été l'instigateur des coups portés au policier. Le 9 février, ayant été informé de l'arrestation et de la détention de son mari, sa femme se serait rendue au commissariat de police pour témoigner. A son arrivée, elle aurait été arrêtée et emprisonnée avec son mari, sans qu'aucune charge ne soit retenue contre elle, et cela en dépit d'un état de santé critique occasionné par l'agression sexuelle. Le 10 février, son état de santé se dégradant, elle aurait été relâchée. Le 13 février, le commandant de police de Lubao aurait demandé au mari de payer 5 000 francs CFA pour pouvoir être libéré. Faute de pouvoir payer, il aurait été maintenu en détention. Le 16 février, N. N. M. aurait été transférée à l'hôpital général de Lubao, où elle serait morte trois jours plus tard des suites des blessures causées par le viol. Son mari aurait alors été immédiatement libéré et le

policier accusé de l'agression contre N. N. M., arrêté. Il aurait été condamné depuis à la servitude pénale à perpétuité et l'Etat à verser environ l'équivalent de 10 000 dollars à la famille de la victime.

Lettre adressée à la Ministre de la condition féminine et de la famille

124. Le 17 août 2004, la Rapporteuse spéciale a adressé une lettre à la Ministre de la condition féminine et de la famille concernant le message officiel que la Ministre avait fait parvenir le 12 juillet 2004 aux autorités locales, leur demandant de procéder à la collecte d'informations sur les cas de violences sexuelles commises sur leur territoire. La Ministre avait sollicité que soient élaborées des listes contenant les noms et prénoms des victimes de violences sexuelles, leurs âge et adresse, ainsi que les noms des auteurs présumés de ce type d'agression. Il semblerait que les instructions aient été rigoureusement suivies par les autorités locales qui, dans certains cas, auraient demandé aux ONG travaillant sur le terrain de fournir des informations privées et/ou confidentielles sur les victimes. La Rapporteuse spéciale a estimé que, bien que cette initiative parte d'une bonne intention, il était à craindre qu'elle puisse porter atteinte à la sphère privée des victimes de viols, et que l'absence de confidentialité dans le traitement des données puisse mettre en danger les victimes. La Rapporteuse spéciale s'est également inquiétée du fait que ce type de pratique pourrait dissuader les victimes de violence sexuelle d'aller consulter un médecin, en vue d'obtenir les soins adéquats, et d'engager des poursuites contre leurs agresseurs.

Lettre d'allégations

125. Par une lettre datée du 1^{er} septembre 2004, la Rapporteuse spéciale, conjointement avec le Rapporteur spécial sur la torture, a informé le Gouvernement qu'elle avait reçu des renseignements sur les cas individuels suivants :

126. **N. B.**, 15 ans, habitant le quartier de Mulongwe à Uvira, aurait été arrêtée le 31 juillet 2004 à midi par un militaire dont le nom est connu des Rapporteurs spéciaux pour avoir prétendument volé des vêtements de son voisin. La jeune fille aurait en fait seulement déclaré avoir vu quelqu'un au marché qui portait les vêtements volés. N. B. aurait été détenue pendant plusieurs heures dans un cachot clandestin à l'intérieur du camp militaire d'Uvira auquel le militaire était affecté. Ce dernier aurait placé des tiges d'arbre entre les doigts de la jeune fille en tapant sur ses mains placées sur une chaise afin de lui faire avouer le vol de vêtements et lui faire dénoncer ses éventuels complices. Vers 18 heures, constatant que les mains de la jeune fille avaient considérablement gonflé et qu'elle ne cessait de pleurer de douleur, le militaire aurait décidé de la libérer afin que ses parents la fassent soigner. Il lui aurait cependant indiqué qu'il reviendrait pour suivre l'enquête. N. B. aurait reçu des soins d'une organisation non gouvernementale locale qui l'aurait également aidée à engager des poursuites contre le militaire.

127. **K. M.**, une agricultrice d'une cinquantaine d'années vivant à proximité d'un camp militaire à Mangangu, près de la ville de Beni (province du Nord-Kivu), aurait été violée à son domicile par un soldat vivant dans le camp militaire, lequel se serait introduit chez elle, le 16 mai 2003, tard dans la soirée. Le lendemain, K. M. aurait porté plainte et aurait dénoncé les faits auprès du supérieur hiérarchique du soldat qui lui aurait ordonné d'indemniser la victime à hauteur d'environ 2 ou 3 euros, ce que le soldat aurait refusé de faire. K.M. se serait alors adressée au gouverneur du district qui lui aurait assuré que son cas serait étudié, lui aurait conseillé de rentrer chez elle, mais n'aurait pris aucune mesure pour assurer sa sécurité. Le soldat

se serait alors rendu sur les terres de K. M., accompagné d'amis; ils l'auraient attachée et rouée de coups, ce qui lui aurait valu une dent cassée et une blessure à la mâchoire. Ils ne se seraient arrêtés que lorsqu'une autre femme les aurait menacés avec une arme à feu. Déterminée à ne pas se laisser intimider, K. M. aurait, de nouveau, porté plainte, malgré les pressions du gouverneur qui lui aurait conseillé de se rétracter. Les hommes seraient alors revenus et lui auraient enfoncé une baïonnette dans le ventre.

128. D'après les informations reçues, de nombreuses femmes et fillettes auraient été violées, mutilées et tuées sans que les responsables n'aient été traduits en justice. Les différentes parties au conflit auraient recours au viol de masse et à d'autres formes de violence sexuelle. S'agissant de la province du Sud-Kivu, quelque 5 000 femmes auraient été violées entre octobre 2002 et février 2003, soit une moyenne de 40 par jour. Dans bien des cas, les victimes de viols seraient délibérément blessées ou tuées. Des milliers de femmes et de fillettes auraient été enlevées ou contraintes par une extrême pauvreté à devenir des esclaves sexuelles ou des combattantes envoyées en première ligne des affrontements. Souffrant de mutilations génitales ou contaminées par le virus du sida, les femmes et les fillettes n'auraient accès à aucun soin, les traitements médicaux et psychologiques étant quasiment inexistantes dans le pays.

Lettre d'allégations

129. Par une lettre datée du 11 octobre 2004, la Rapporteuse spéciale, conjointement avec le Rapporteur spécial sur la torture, a informé le Gouvernement qu'elle avait reçu des renseignements selon lesquels au moins **119 femmes**, parmi lesquelles des femmes enceintes, des mineures et des fillettes – dont l'une âgée de 9 ans – ont été violées durant la nuit du 21 décembre 2003 à Bongandanga et à Songo Mboyo, un groupement de 10 villages situé sur le territoire de Bongandanga dans la province de l'Équateur.

130. Les auteurs de ces viols seraient des soldats du 9^e bataillon de la base de Songo. Ce bataillon appartenant aux Forces armées de la République démocratique du Congo (FARDC) serait composé de 5 compagnies représentant un total de 478 soldats. Furieux de ne pas avoir reçu leur salaire depuis des mois et suspectant leur commandant d'en avoir détourné une partie à son profit, les soldats auraient organisé une mutinerie, vidé les dépôts d'armes et violé les femmes ou concubines de certains officiers avant de piller les villages, attaquer leurs habitants et procéder au viol systématique des femmes. Les attaques auraient débuté à Songo Mboyo aux environs de 21 heures avant d'atteindre Bongandanga, et n'auraient pris fin qu'à 11 heures le lendemain matin.

131. Les villageois auraient été dépossédés de leurs habits, de leurs chaussures, de leurs vivres, de leurs animaux, de leurs instruments de cuisine, de leur matériel agricole, ainsi que de leurs économies. Certaines femmes auraient été violées par plus de dix soldats. Dans plusieurs cas, les viols auraient eu lieu sous les yeux des maris des victimes. Les femmes qui se seraient opposées à leurs agresseurs auraient été frappées à l'aide de crosses de pistolet, et menacées de mort. A Bongandanga, **B. Y. (m)** aurait été tué pour avoir tenté de protéger sa femme. Les soldats auraient également délibérément piétiné **un nourrisson de trois mois**.

132. Depuis leur arrivée dans la région en 1999, les soldats du 9^e bataillon se seraient livrés si fréquemment au pillage des biens des civils que nombre de fermiers auraient décidé de mettre un terme à leur activité agricole, qu'ils n'auraient reprise qu'après le départ du bataillon. C'est

précisément en raison de leur longue présence dans la région que les victimes n'auraient eu aucun mal à identifier leurs agresseurs, et ce d'autant plus que certaines femmes avaient déjà fait l'objet par le passé de harcèlement sexuel de la part de certains soldats. Les noms ou surnoms de 78 militaires présumés avoir pris part aux viols collectifs ont ainsi pu être portés à la connaissance des Rapporteurs spéciaux.

133. Nombre de victimes dépouillées de leurs vêtements auraient été contraintes de vivre dans la forêt; celles encore couvertes de vêtements déchirés auraient pu continuer à vivre dans les villages. La plupart des femmes, souffrant de sérieux problèmes gynécologiques, n'auraient eu accès à des soins qu'en mai 2004 grâce à un projet médical réalisé par une organisation non gouvernementale et soutenu par la Mission des Nations Unies au Congo (MONUC).

134. Plus de 100 plaintes pour viol et 86 plaintes pour pillage auraient été déposées auprès de 6 membres de l'auditorat militaire de Mbandaka qui se seraient rendus sur les lieux accompagnés par une délégation du Ministère congolais des droits humains. Cependant, et en dépit de la précision des témoignages et de l'identification des présumés responsables, l'investigation n'aurait toujours pas été poursuivie à ce jour. Les soldats auraient été déployés à Basankusu le 25 décembre, emportant avec eux les biens pillés sans être ni surveillés, ni interrogés. D'après les informations reçues, il n'y aurait à ce jour aucune assurance que ces soldats ne soient pas déplacés de Basankusu avant que des investigations complètes ne soient menées.

Observations

135. Le 8 décembre 2004, la Rapporteuse spéciale a publié, conjointement avec l'Expert indépendant sur la situation des droits de l'homme en République démocratique du Congo et le Rapporteur spécial sur les formes contemporaines de racisme, de la discrimination raciale, de la xénophobie et de l'intolérance qui y est associée, un communiqué de presse par lequel ils ont exprimé leur préoccupation face à la montée des tensions en République démocratique du Congo et aux informations sur la présence dans le pays de troupes rwandaises. Les experts se sont notamment déclarés particulièrement inquiets des informations faisant état de graves exactions commises contre les populations civiles et le personnel humanitaire présent dans la région et ont engagé toutes les parties concernées à s'abstenir de faire usage de la force et des armes, de mettre un terme aux violations des droits de l'homme et du droit humanitaire, et notamment aux crimes de guerre et aux crimes contre l'humanité que constituent les violences sexuelles contre les populations civiles.

136. La Rapporteuse spéciale remercie le Gouvernement pour sa lettre datée du 5 janvier 2004 par laquelle il lui a fait part de son accord de principe à ce qu'elle effectue une visite dans le cadre de son mandat. Au vu de la gravité des violences faites aux femmes dans le pays, la Rapporteuse spéciale regrette néanmoins que le Gouvernement de la RDC n'ait pas été en mesure de fournir des informations sur les investigations entreprises et sur les mesures prises pour mettre fin à l'impunité dont semblent jouir les responsables de ces violences et pour indemniser les victimes et leurs familles.

Egypt

Allegation letter

137. By letter dated 8 September 2004, sent jointly with the Special Rapporteur on torture, the Special Rapporteur notified the Government that she had received the following allegations.

138. **I.M. A.**, a 48-year-old housewife from Suez. On 16 January 2003, she and her husband were arrested and taken to the Cairo Security Department. Heliopolis and Nasr City Divisions charged them with 12 counts of robbery, to which they were forced to confess. She was beaten, forced to take off her clothes, and sexually assaulted by officers. She sustained an injury to the right index finger, bruises to the chest and back, and swelling in the left knee and foot.

139. **S.M.A.M.**, a 37-year-old housewife from Al Sharabeya. On 15 June 2003 members of the Sharbeya police force broke into her house and took her to the police station. There her veil was removed. She was blindfolded, beaten and insulted. After two days she was taken to a shop called Al Shaymaa where a police officer (whose name is known to the Special Rapporteur) beat and insulted her.

140. **M.I.M.**, a 60-year-old housewife from Kafr El Sheikh. On 16 September 2003 officers from the Kafr Shokr police station entered her house in order to arrest her son. When they could not find him, she was whipped and kicked, and taken to the police station where she was again whipped and kicked. She was charged with hiding her son and assaulting a guard, and sent to the Public Prosecutor's Office. She was later taken to Kafr Shokr Hospital, where she was treated for her injuries for five days. She suffered swelling and bruising around both eyes and head, and injuries from the whipping to her shoulders and thighs.

141. **Nariman, Noha, Nehad, Nouyra** and **N.A.H.B.**, all from Zawya Hamra. On 17 December 2003, officers from the Sharabeya police station broke into their home in search of their brother. The sisters were assaulted, causing the following injuries: Nariman suffered an injury to the left eye; Nehad, who was in the first trimester of her pregnancy, suffered bruises to her hands and illness; Noha sustained bruises to her back and abrasions to the head; and N.A.H.B. suffered bruises to her left hand and a broken finger on her left hand. No investigation had been carried out.

Government reply

142. By letter dated 11 November 2004, the Government sent the following response:

(a) **S.M.A.M.** is the sister-in-law of R.F.S.A., for whom the Department of Public Prosecutions issued an arrest warrant as a suspect in the shooting of F.A. al-H.I. on 15 June 2003. After the man was arrested, in possession of the weapon used to commit the offence, S.M.A.M. filed a number of complaints, which were proved to be baseless, in a bid to induce the investigating authorities to release the accused;

(b) **I.M.A.** and her husband S.U.A. formed a gang specializing in stealing women's handbags. These facts were confirmed by a police investigation and the two were arrested and detained by order of the Department of Public Prosecutions. Investigations are continuing;

(c) **M.I.M.** is the mother of a person wanted in Kafr Shagr criminal case No. 2745 of 2003 for committing aggravated robbery on 17 September 2003. She assaulted and injured a policeman who was trying to arrest her son. The Department of Public Prosecutions launched an investigation and the case file was registered as offences case No. 5395 of 2003. When the woman was questioned, she claimed that she had been tortured by a police officer from Kafr Shagr. The witnesses to the incident were also questioned and they said that the woman had assaulted the officers and had helped her son to escape. The case is still before the courts;

(d) **Nariman, Noha, Nehad, Nouyra** and **N.A.H.B.** are the sisters of a man called B.A. al-H. Mr. Al-H. was suspected of committing assault and battery in Sharabiya, offences case No. 14212 of 2003, and the Department of Public Prosecutions issued a warrant for his arrest. When law enforcement officers attempted to arrest him, they were assaulted by his sisters who tried to stop them from making the arrest. The man was arrested and is being investigated by the Department of Public Prosecutions.

143. According to the Government, investigations are continuing and the legal measures that were taken were overseen by the Department of Public Prosecutions, a branch of the judiciary. The Department of Public Prosecutions is the national body to which victims may submit complaints and it guarantees their legal rights and prosecutes persons who commit acts that are legally designated as criminal offences.

Urgent appeal

144. On 12 March 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the sale of children, child prostitution and child pornography regarding cases of abduction of Christian women and girls.

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

146. On 27 September 2003, **E.E.N.** reportedly went out and never returned home to her father and brother in Cairo. When Ms. N.'s father, Mr. E.N.S., went to the police station to report his daughter's disappearance he was reportedly detained overnight on accusations of trying to interfere with his daughter's alleged conversion to Islam. Ms. N.'s abductor is reportedly known to the police. It is reported that Ms. N. was forced on the second day of her abduction to announce her conversion at a police station with the help of her abductor's lawyer. On 29 September 2003, the Giza State Security Directorate reportedly held a hearing on Ms. N.'s case which Ms. N. attended dressed in an Islamic veil and allegedly appearing emotionally unstable.

On 18 October 2003, two Coptic priests were present at a second hearing to ask Ms. N. about her decision to convert to Islam but Ms. N. did not attend the meeting.

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

148. On 30 June 2003, **N.S.** was reportedly abducted by persons in a passing car, according to an eye witness, from in front of her school in Alexandria. A police report was filed, but no efforts have reportedly been made to return her.

149. On 12 April 2003, **N.M.K.** was abducted from the village of Samalut, Minia.

Government reply

150. By letter dated 29 April 2004, the Government sent a reply concerning the following cases:

151. Concerning **H.S.W.**, the Government indicated that it emerged from the investigation that she had gone to Al-Azhar al-Sharif to declare her conversion to Islam, in accordance with her own wishes and beliefs, and that she had obtained a certificate testifying to her conversion. A.F.H. had nothing to do with her conversion to Islam. There is nothing to the relationship between the two than the fact that they are both students at the same faculty.

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

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

154. Concerning **N.S.S.**, the Government indicated that on 2 July 2003 a Christian man filed a report with the Ramal police in Alexandria that his daughter was missing and that he suspected that she had been abducted after taking an examinations for her secondary school certificate. He did not blame anyone for the disappearance. From the investigation it emerged that the girl had

gone to the Azhariya district of Samuha in Alexandria with a view to initiating the procedure for her conversion to Islam. However, her application had been rejected because she was too young. There is no evidence as to the girl's present whereabouts, nor is there any evidence to support the allegation that she was abducted.

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

Urgent appeal

156. On 5 July 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Rapporteur on torture, concerning **H.S.**, a 17-year-old Coptic girl who was reportedly abducted in Cairo on 6 April 2004. On 7 April, the family reported the disappearance to the Rod El Farag police station and told the police that a 30-year-old Muslim man could be involved as she had complained that he had bothered her on the way to school. Later, the police told the family they had found H.S. and that the family could come and collect her. The father was allowed to meet H.S. and talk to her, but he found her agitated and verbally aggressive as if she was under the effect of drugs. She said she was afraid of going back to her family. Then the police took H.S. and her father to the magistrate at the National Security Office, where she was questioned about the suspected perpetrator. She claimed that he was her husband and that she had converted to Islam. She was then taken back to the police station. On 8 April, H.S. was brought back to her family and on 14 April, the family moved to Alexandria, fearing for their safety. On 2 June, H.S. disappeared again, and the family has received no news from her since. The police did not take any action to investigate the allegations of abduction or forced marriage and reportedly did not provide the family with proper protection and security.

Government reply

157. By letter dated 20 September 2004, the Government reported that on 7 April 2004, H.S.'s father reported to the Rawd al-Farj police station that his daughter had gone missing on 6 April after leaving home. He indicated a possible suspect, who was questioned by the police and who denied any involvement in her disappearance or having information about her whereabouts. According to the Darb al-Ahmar police station report of 7 April, H.S. had gone to the station to give a statement in which she declared that, on the previous day, she had left school and gone to Al-Azhar in order to complete the procedures for formal conversion to Islam. She had been asked to go to the police station to register her decision. She denied that anyone had tried to influence her, or persuade or force her to convert. She was therefore not abducted, but left on her own accord, and was not forced to marry a Muslim or change her religion. She had been sent with a copy of the report to the Rawd al-Farj police station so that she could be delivered into her parents' care. On 7 April, her father was summoned and at around 9 p.m. H.S. was handed over to her father, after the family provided an undertaking that they would not harm her. At 11.30 p.m. H.S. and her father, accompanied by a policeman, returned to the station. The

policeman reported that the girl had appealed for help after her relatives tried to force her against her will to enter a church. She confirmed the policeman's statement. She was handed to her family for a second time with an undertaking that they would not harm her. The police fully discharged their responsibilities, having delivered the girl into her family's care, in the presence of a Christian clergyman. On 3 June 2004, her relatives again made inquiries about her whereabouts. Investigations have failed to establish them and are continuing. It is clear that the girl's habit of running away from home is due to the ill-treatment inflicted by her relatives because of her conversion.

Ethiopia

Urgent Appeal

158. On 28 May 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, and the Special Rapporteur on torture, regarding the rapidly deteriorating situation in the rural areas of Gambella. During the period between 13 and 15 December 2003, **424 Anuak** were reportedly killed by Ethiopian Government troops in uniform along with local people from highland areas in Abobo, Itang, Gog and Gambella town in the Gambella region. The pretext for these massacres is reported to have been an attack on a van carrying eight United Nations and Ethiopian Government refugee officials on 13 December 2003, which was blamed, without conclusive evidence, on members of the Anuak ethnic group. During this three-day period, in addition to the 424 people who were reported to have been killed, over 200 were wounded and approximately 85 people remain unaccounted for. The Special Rapporteurs were deeply concerned at reports indicating that killings and other acts of ethnic cleansing were continuing. Indeed, according to the information received, some 1,100 persons belonging to the Anuak people were killed, allegedly by Ethiopian troops. Reports indicated that entire villages had been burnt to the ground, sometimes with the occupants still in their homes, and that the Anuak's crops had also been destroyed. Many villagers had reportedly been forced to flee, and thousands had travelled to a refugee camp in Pochalla, Southern Sudan. Destruction was said to be widespread, with hundreds of homes and fields having been set ablaze, leaving thousands of persons without shelter or food. There were serious concerns that, due to the upcoming rainy season, these persons would be exposed to disease and starvation unless immediate humanitarian action is taken. Information received indicated that around 5,000 Ethiopian troops had been engaged in fighting against Anuak farmers at Tedo village since 10 April 2004, and had burned down all of the village's houses and crops. There were concerns that they might be moving towards Pochalla refugee camp in order to attack the refugees. According to the information received, certain groups were allegedly being specifically targeted: Anuak women and girls had been systematically raped. A police officer was said to have recorded 138 cases of women who were raped in Gambella town in December 2003, before being ordered to stop recording cases. There were also indications according to which educated men were being subjected to selective, politically motivated extrajudicial executions. Several hundred persons, including community leaders, had reportedly been arbitrarily arrested, many of whom were being detained incommunicado and allegedly subjected to torture.

Observations

159. The Special Rapporteur would like to reiterate her interest in receiving a response from the Government in regard to the allegations submitted.

160. The Special Rapporteur also considers it appropriate to draw attention to the concerns expressed by the Committee on the Elimination of Discrimination against Women about the incidence of rape in the country. The Committee was concerned about the increasing number of Ethiopian women migrating to other countries in search of work and finding themselves in situations where they are vulnerable to various forms of violence, exploitation and trafficking (A/ 59/38, para. 265). The Committee also expressed concern at the persistence of entrenched traditional discriminatory practices, including female genital mutilation undergone by 80 per cent of girls and women, and inheritance of a widow with all her property (ibid., para. 251). The Committee was concerned that no specific legislation had been enacted to combat violence against women, including domestic violence, and at the lack of systematic data collection on violence against women, particularly domestic violence. The Committee was also concerned that, while abduction had been recognized as a crime under the Ethiopian Criminal Code, the implementation of the law was weak and abductions tended to be resolved through discriminatory customary laws and practices (ibid., para. 255).

France

Lettre d'allégations

161. Par lettre en date du 15 octobre 2004, la Rapporteuse spéciale a informé le Gouvernement qu'elle avait reçu des renseignements selon lesquels, du 29 juin au 29 août 2004, au moins 29 femmes seraient mortes sous les coups de leur conjoint, ex-mari, concubin ou ex-compagnon, soit une femme tous les deux jours au cours de l'été 2004. En 2000, 192 femmes seraient décédées suite à des violences conjugales. Plus généralement, une femme décèderait tous les 5 ou 6 jours des suites de violences conjugales. Il a également été rapporté que les homicides de femmes seraient banalisés et toujours relégués au rang de faits divers locaux ou de drames privés.

162. Malgré l'ampleur des violences domestiques, aucun chiffre précis ne serait disponible, en raison principalement de l'absence d'organisme chargé de comptabiliser ces homicides. La création d'une telle structure, dont l'existence permettrait pourtant de mieux cerner le phénomène des violences domestiques et par là même de mieux les combattre et les prévenir, aurait été préconisée en 2001 dans un rapport rédigé par un membre de l'Académie de médecine à l'initiative du Ministère de la santé qui, jusqu'à aujourd'hui, serait resté lettre morte.

Réponse du Gouvernement

163. Par lettre en date du 10 janvier 2004, le Gouvernement a indiqué avoir pris la mesure du phénomène de violence auquel les femmes sont confrontées et fait de la lutte contre les violences conjugales l'une de ses priorités. Le Gouvernement a également fait savoir que les statistiques sur les violences envers les femmes étaient encore parcellaires. En ce qui concerne plus particulièrement l'été 2004, le Gouvernement ne dispose pas à ce stade d'informations précises sur le nombre de décès qui seraient survenus durant cette période dans le cadre de violences

conjugales. Toutefois, le recueil au niveau institutionnel de statistiques spécifiques aux violences contre les femmes indique une augmentation de 15 % des procédures liées à des violences conjugales, en Ile-de-France, entre 2001 et 2003. Les condamnations criminelles et correctionnelles à l'encontre des auteurs de violences conjugales ont également connu une progression, au cours de cette période, dans cette région. Préoccupé par cette question, le Gouvernement, après avoir diligenté l'enquête nationale sur les violences envers les femmes en France (ENVEFF) en 2000, qui a donné des éléments sur l'ampleur du phénomène des violences, a pris un ensemble de mesures et devrait désormais disposer d'informations plus précises sur ce phénomène. 10 % des femmes interrogées se sont déclarées victimes de violences au sein de leur couple. Le Gouvernement a saisi le Conseil national de l'information statistique afin que les services statistiques des administrations concernées se mobilisent pour que des données plus précises sur ce sujet soient disponibles par sexe. D'autre part, le Gouvernement a décidé, dans le cadre du plan global de lutte contre les violences, présenté le 24 novembre 2004 en Conseil des ministres, de prendre un ensemble de mesures de nature à permettre d'approfondir nos connaissances en ce domaine : 1) Une mission sera menée pour identifier, à partir des statistiques disponibles de la police, de la gendarmerie, de la justice et des services hospitaliers, sur quelques territoires circonscrits, le nombre de décès de femmes du fait de violences conjugales, sur une période d'un an; 2) L'Observatoire national de la délinquance, créé en octobre 2003 au sein de l'Institut national des hautes études de sécurité (INHES), devra également élaborer des statistiques par sexe sur les violences contre les femmes. La production, dans le cadre des travaux de cet Observatoire, d'instruments de statistiques par sexe sur les violences contre les femmes, compatibles entre l'ensemble des services, permettra d'avoir une vision claire et évolutive des situations de violence; 3) Une étude sur le coût économique global des violences au sein du couple sera conduite. Les conditions de lancement de cette étude et son cahier des charges sont en cours d'examen.

164. La Commission nationale contre les violences envers les femmes réunit toutes les administrations concernées et les associations sous la présidence de la Ministre de la parité et de l'égalité professionnelle. La protection des victimes en général, et des femmes victimes de violences conjugales en particulier, a été intégrée dans de nombreux textes législatifs récents, notamment en ce qui concerne la mesure d'éviction du conjoint violent garantissant à l'épouse victime son maintien au domicile conjugal. Le Gouvernement s'est notamment donné pour objectif d'améliorer les conditions d'accueil des victimes de violences conjugales ainsi que le traitement judiciaire de ces infractions.

165. Sur le plan pénal, le Ministère de la justice a élaboré, en septembre 2004, en partenariat avec les autres ministères et services concernés, un guide de l'action publique de lutte contre les violences au sein du couple, dont l'objectif est d'accroître l'efficacité de la réponse pénale apportée à ce type d'infractions tout en tenant compte des spécificités de ce contentieux. Ce guide vient d'être adressé à l'ensemble des juridictions françaises. Un second guide, à l'usage des associations d'aide aux victimes, qui porte sur la prise en charge et le suivi des victimes de violences conjugales par le secteur associatif, est en cours de finalisation. Il existe 168 associations d'aide aux victimes, conventionnées par les cours d'appel, qui peuvent être mandatées par le Procureur de la République dès le début de l'enquête pénale afin de proposer aux victimes un soutien matériel et psychologique.

166. S'agissant de leur indemnisation, les victimes de violences conjugales peuvent saisir, sous certaines conditions, la Commission d'indemnisation des victimes d'infractions et obtenir

ainsi une indemnisation, versée par le Fonds de garantie des victimes des actes de terrorisme et d'autres infractions, quel que soit le devenir de la plainte déposée, dès lors que les faits présentent les éléments matériels d'une infraction.

167. Enfin, le Plan global de lutte contre les violences faites aux femmes doit donner un élan nouveau à la politique de lutte contre les violences envers les femmes. Ce plan comporte dix mesures pour l'autonomie des femmes qui couvrent l'ensemble du parcours des personnes confrontées à des situations de violence. En vue d'atteindre le premier objectif consistant à mettre en œuvre des réponses sociales et économiques et d'assurer une meilleure sécurisation juridique des femmes victimes de violences, le Plan propose des mesures pour faciliter l'hébergement et l'accès de ces femmes à un logement de droit commun, d'améliorer leur information sur leurs droits en matière de prestations, de permettre leur accompagnement professionnel, de faciliter leur accès à la justice et d'assurer leur protection. Un deuxième volet de mesures vise à moderniser l'action publique par le renforcement des partenariats et une mise en cohérence des interventions. Dans ce cadre, l'accent a été mis sur le repérage des situations de violence par les professionnels de la santé, le renforcement du soutien financier aux associations et du partenariat entre les différents intervenants, la communication en direction du grand public et la sensibilisation de l'ensemble des professionnels concernés, la mesure du coût de la violence et la prévention des violences dès l'école.

Observations

168. La Rapporteuse spéciale sait gré au Gouvernement de sa réponse détaillée, et se félicite des réformes législatives et de l'adoption de mesures spécifiques pour combattre la violence faite aux femmes.

Guatemala

Carta de alegaciones

169. Por carta con fecha de 15 de julio de 2004, la Relatora Especial juntamente con el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, y la Representante Especial del Secretario General para los defensores de los derechos humanos notificó al Gobierno que recibió información en relación con los **hijos de M. P. A. y J. E. J.**, ambos miembros activos del Sindicato de Finca María Lourdes. El Sindicato de Finca María Lourdes vela por los derechos de los trabajadores que habrían sido hostigados por la dirección de la plantación tras presentar una denuncia en 1992 por el despido ilegal de 47 miembros.

170. De acuerdo con las informaciones recibidas, la **hija, de 15 años** de edad y su **hermano, de 13 años de edad**, estaban lavando ropa cerca de su casa por la tarde del 6 de julio de 2004 cuando dos hombres con el rostro cubierto por pasamontañas los habrían atacado y arrastrado a punta de pistola a un cafetal cercano, donde los habrían atado con la ropa de los propios niños. A continuación, uno de los hombres habría violado a la niña mientras el otro montaba guardia. Los trabajadores de la plantación que buscaban a los niños desaparecidos los habrían encontrado aproximadamente una hora después. Los dos niños habrían sido golpeados. El 7 de julio de 2004, los padres de los niños habrían presentado una denuncia ante el Ministerio Público y la Procuraduría de los Derechos Humanos. En su testimonio, la niña habría identificado al hombre

que estuvo montando guardia como el director de la Finca María Lourdes, por su ropa y su comportamiento. El 8 de julio de 2004, el médico forense local habría confirmado que la niña habría sido violada. Aún no se habría dictado ninguna orden de detención en relación con este ataque. Se teme que esta violación pudiera formar parte de las tácticas de intimidación emprendidas por la dirección de la plantación contra los activistas sindicales que habrían emprendido acciones legales contra la plantación. En marzo de 2004, el director de la plantación habría ofrecido una recompensa a cualquiera de los guardias privados de seguridad de la plantación que violara a una mujer relacionada con el sindicato. El 8 de julio de 2004, los abogados que representan a la Finca María Lourdes habrían advertido a otros miembros del sindicato de que serían detenidos si implicaban al director de la plantación en la denuncia de violación.

Observación

171. La Relatora Especial quisiera reiterar su interés en recibir una respuesta del Gobierno sobre las alegaciones enviadas.

Honduras

Carta de alegaciones

172. Por carta de fecha 16 de septiembre de 2004, la Relatora Especial, juntamente con el Relator Especial sobre la tortura, notificó al Gobierno que recibió información sobre los casos siguientes:

173. **J. L. C.** 38 años, una travestí, trabajadora comercial del sexo, habría sido golpeada por miembros de la patrulla n° M1-19 de la policía preventiva el 26 de marzo de 2003. Debido a los golpes recibidos, habría presentado hematomas e hinchazón en las piernas, el rostro y el dorso, y contusiones en los brazos. Durante su detención, no le habría sido permitido comunicarse con su abogado ni comunicarse con nadie. Este caso se habría presentado ante el Comisionado Nacional de Derechos Humanos y remitido al departamento de asuntos internos de la policía. Al concluir que hubo abuso de autoridad y lesiones por parte de los miembros de la patrulla de policía n° M1-19, el expediente se remitió a la Fiscalía de Derechos Humanos en julio de 2003. La Fiscal asignada al caso habría sido trasladada de puesto y el proceso estaría prácticamente paralizado, supuestamente por falta de requerimiento para evacuar las investigaciones por parte de la Fiscalía y la Dirección General de Investigación Criminal (DGIC). Desde que habría presentado su denuncia, Zafiro habría sido objeto de amenazas por parte de miembros de la policía.

174. **S. R. Z.**, una trabajadora comercial del sexo travestí de 20 años, habría sido agredida en junio de 2003 en la Estación de Policía número 4 de Comayagüela por dos agentes que le habrían exigido tener relaciones sexuales con ellos. Al negarse, habría sido golpeada en la cara y el cuerpo con porras. Los agentes le habrían dado punta pies y habrían abusado de ella sexualmente. Como consecuencia de esta agresión habría presentado hematomas e hinchazón en las piernas, el rostro y el dorso y contusiones en los brazos.

175. **E. O. A. G.**, 21 años, una travestí, trabajadora comercial del sexo, habría sido agredida por dos agentes de la Policía Preventiva de la Estación de Policía número 4 de Comayagüela en febrero de 2004, cuando se encontraba trabajando en la Calle Real de la ciudad. Los agentes le

habrían exigido tener relaciones sexuales con ellos a cambio de poder seguir trabajando. Al negarse, habría sido golpeada en la cara, tirada al suelo y pateada. Le habrían arrancado parte de su vestimenta, gritándole obscenidades y echándole gas lacrimógeno en la cara. Seguidamente habría sido golpeada con una porra en la espalda y las piernas y luego con las cachas de sus pistolas. Después de esta agresión, Marjorie habría presentado hematomas e hinchazón en las piernas, rostro y dorso, contusiones en los brazos e irritación en los ojos. Habría sido mantenida en detención durante 12 horas sin acceso a un abogado ni un médico.

176. **M. M. M.**, 20 años, una travestí, trabajadora comercial del sexo, habría sido agredida por dos agentes de policía del Manchen, de Tegucigalpa, el 19 de marzo de 2004, mientras se encontraba trabajando en Zona Hotel Honduras Maya, en Tegucigalpa. Los agentes le habrían exigido mantener relaciones sexuales con ellos a cambio de dejarle trabajar y le habrían intentado quitar todo el dinero que llevaba encima. Al negarse, habría sido golpeada en la cara y pateada. Le habrían arrancado parte de su vestimenta, insultándola y amenazándola con la culata de sus armas. Unos días más tardes, unos agentes de policía vestidos de civil le habrían disparado en la cara. Habría sido inmediatamente internada en el Hospital Escuela de Tegucigalpa con una bala incrustada en la garganta. No se habría presentado una denuncia formal por temor a represalias.

177. **J. R. F. R.**, 25 años, una trabajadora comercial del sexo travestí, habría sido hostigada, golpeada, incluso con culatas de rifles, y amenazada por agentes de seguridad del Estado Mayor Conjunto en Comayagüela, el 16 de abril de 2004. Seguidamente, habría sido detenida. Los golpes recibidos le habrían provocado hematomas e hinchazón en el rostro, dorso y brazos.

178. **Y. L. M. L.** 23 años, una travestí, trabajadora comercial del sexo, y tres travestís más, **Noelia, Luna y Carolina**, habrían sido agredidas por agentes de la Policía Preventiva de la Estación de Policía número 4 de Comayagüela el 15 de agosto de 2004, cuando se encontraban en la Calle Real de la ciudad. Los agentes las habrían insultado y golpeado con sus porras y las culatas de sus armas, arrancado parte de sus vestidos. Paulina habría presentado hematomas e hinchazón en las piernas, el rostro y el dorso y contusiones en los brazos y habría sangrado de la nariz.

179. **O. A. Z.**, 34 años, una travestí, trabajadora comercial del sexo, habría sido golpeada, incluso con porras y culatas de pistolas, por agentes de la Policía Preventiva de la Estación de Policía número 4 de Comayagüela el 15 de agosto de 2004. Habría sido conducida a la mencionada estación de policía donde habría permanecido hasta la tarde del mismo día, sin poder comunicarse con nadie ni ser atendida por ningún médico. Tras la agresión, habría presentado hematomas e hinchazón en las piernas, el rostro, el dorso y los brazos, fiebre y dolor de cabeza. Leonela habría sido mortalmente apuñalada el 6 de septiembre de 2004. Se alega que fue asesinada por un grupo de personas homofóbicos.

Observación

180. La Relatora Especial quisiera reiterar su interés en recibir una respuesta del Gobierno sobre las alegaciones enviadas.

India

Allegation letter

181. By letter dated 8 June 2006 sent jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur advised the Government that she had received information according to which a group of 200 people attacked a Dalit settlement in Kalapatti village of Coimbatore district, Tamil Nadu, India on 16 May 2004. It is reported that the Dalits' homes were attacked by upper-caste villagers using swords and other weapons. They reportedly pushed the Dalits to the ground and stamped on them, verbally abusing them by using degrading caste names. They allegedly sexually assaulted women and attempted to pull off their saris. It is reported that during the attack on the settlement an 8-month-old baby boy who was sleeping in a cradle was thrown against a wall, a 75-year-old man who was returning from work to the village was attacked when he got off the bus, a woman aged 45 years was hit on her head and started bleeding badly when she went to rescue her son. Many Dalits are said to have tried to escape but were prevented from leaving the settlement. Many Dalit houses were reportedly burnt, money and jewels were stolen and property damaged or set on fire. The perpetrators also allegedly killed cattle owned by the Dalits. As a consequence of the attack, which took place between 6.30 and 8.30 p.m. on 16 May 2004, nearly 100 Dalit houses were burnt to the ground. Many people living in the settlement sustained serious injuries and 14 Dalits were admitted to the Coimbatore Medical College Hospital. Fears have been expressed for their security.

Allegation letter

182. By letter dated 16 August 2004, sent jointly with the Special Rapporteur on torture, the Special Rapporteur notified the Government that she had received the following allegations.

183. **R.C.**, aged 42 years, North Street, Thanjavur, Thanjavur district, Tamil Nadu, **V.**, her daughter, and **S.S.**, her nephew. It is alleged that in connection with complaints of harassment against policemen of the Thanjavur West police station, on 2 February 2002, the Inspector of Police and the Head Constable of the police station (whose name is known to the Special Rapporteur) went to her house. Finding her on the veranda of a neighbouring house, the Head Constable beat her on her back. He dragged her towards a vehicle by her sari, and threatened to kick her if she opened her mouth. **V.** was hit on her hands by the Head Constable when she intervened. On 24 April 2002, the Sub-Inspector, the Head Constable and two female police officers arrived at 1 a.m. to serve **R.C.** with an arrest warrant. The Head Constable woke her nephew, hit him, and took him to the police station. **S.S.** was released at 5 p.m. the next day. At 1 a.m. on 5 June 2002, the Sub-Inspector of Thanjavur North police station, accompanied by three policemen (whose names are known to the Special Rapporteur), forced **R.C.** to remove the earrings worn by her daughter **M.** and her sister **K.** Upon refusing, the Sub-Inspector and one of the policemen pulled off her sari, and forced her to sign blank pieces of paper saying that she had stolen the jewellery. The policemen placed gold jewellery brought from elsewhere and photographed and videotaped her with it. She was taken to the Thanjavur Women's police station at 2 a.m. was taunted that this was a punishment for the complaints she had filed, and was told to stop making complaints. **R.C.** was brought before the JM I court at 6 p.m., remanded in custody for 15 days at the Trichy Central Prison, and was released on bail on 12 June 2002.

184. **K.S.**, aged 45, of Pazhaya Theru, Kattuparamadudi, Paramakudi Taluk, Ramanathanpuram district, Tamil Nadu. At the Paramakudi town police station from 25 November 2002 at about 2.45 p.m. until her death on 30 November, she was shackled to a table, kicked, and beaten with PVC pipes and lathis on her head, back, hips and legs. K.S. was pierced with needles on her fingertips and verbally abused. She was being questioned in connection with a theft investigation. During the period of her detention, she was not given access to legal assistance, and could communicate with her daughter and three other relatives briefly. On 1 December, a post-mortem examination at the Government Hospital, Paramakudi, revealed contusions, bruises and other injuries on the back side of the right hand, right upper arm, right shoulder, left leg, left ankle, behind the left foot, right knee, and front right side of her head. To date no investigation has been carried out.

185. **T.M.**, aged 32, of Bamon Kampu, Imphal East district, Manipur. On 11 July 2004 troops of the 17th Assam Rifles forcibly entered her home at midnight, dragged her out of bed, and beat members of her family who tried to intervene. They then locked the door of the house from the outside, blindfolded and bound her hands and feet and beat her. At around 3.30 a.m., the family was given a memo of arrest signed by the General Duty of the Assam Rifles, and two other official persons (whose names are known to the Special Rapporteur). According to the memo, no incriminating evidence was found on T.M. at the time of her arrest. The family was also forced to sign some papers which they did not understand, and were told by the army personnel that she would be handed over to the Irilbung police in the morning. The body of T.M. was found at around 5 p.m. by villagers at Kerirao Wangkhem Road, near Ngariyan Maring village, 4 km from the family's house. The body was not fully clothed, bore scratches, a knife wound to the right thigh, and bullet wounds on her back, upper buttock and genitals. A post mortem was conducted on 11 July at the Regional Institute of Medical Sciences, Imphal, but the family alleged that it was not conducted according to the National Human Rights Commission's guidelines and have called for an independent post mortem. The spokesman of 9 Sector Assam Rifles said on 11 July that T.M. was a member of the banned Peoples Liberation Army (PLA), and was shot dead when she tried to flee while leading the Assam Rifles to a PLA hide out. It was also stated that she was found with a wireless radio, a hand grenade and incriminating documents at the time of her arrest, contrary to the arrest memo.

Allegation letter

186. By letter dated 20 September 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on torture, and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the Special Rapporteur notified the Government that she had received allegations concerning the situation of the Manipuri indigenous communities in some areas of Manipur State.

187. According to the information received, on 11 July 2004, **T.M.D.**, an indigenous woman from the Imphal East district in Manipur, was raped and killed. It is alleged that the perpetrators were members of the 17th Assam Rifles. The body was reportedly found with seven bullets, probably fired at point-blank range. The autopsy confirmed that she had been raped prior to her death. It is said that the incident is a consequence of her suspected links with the PLA.

188. Following the incident, a number of demonstrations took place where a number of people protested against her murder and requested a prompt and fair investigation. During the

demonstrations, several people reportedly suffered due to the tear gas used by the police and one person, **K.M.**, died as a result.

189. In this context, the Special Rapporteurs expressed their extreme concern over the reported human rights violations suffered by indigenous people in Manipur. The Special Rapporteurs also expressed their concern regarding the allegations of excessive use of force and intimidation by the police and other military personnel during the above-mentioned demonstrations. Furthermore, the Special Rapporteurs were concerned following recent reports regarding mass arrests of indigenous protesters in the course of various peaceful demonstrations. Concerns have been expressed over the way the arrests were carried out as well as at the basis for the charges against those detained. The arrests have reportedly been carried out according to sections 121/121-A/124-A of the Indian Penal Code and the "Seven Criminal Law Amendment Act of 1932", establishing the death penalty or imprisonment for life of any persons waging or attempting to wage war against the Government of India.

Urgent appeal

190. On 18 June 2004, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Representative of the Secretary-General on the situation of human rights defenders. On 15 June 2004, **K.S.**, an activist for the abolition of child labour and Chairperson of the Global March Against Child Labour and the Global Campaign for Education, accompanied by four parents who claimed that their daughters were being held in bondage in the Great Roman Circus in Colonel ganj town, Gonda district, Uttar Pradesh, met the Sub-Divisional Magistrate, the Police Superintendent and media representatives in order to conduct a rescue operation at the circus. According to information received, the circus exploits child labour, especially girls, who are kept in bondage. It is reported that, in the presence of the magistrate and the policeman the circus owner threatened **K.S.** at gun-point and, with other members of the circus, proceeded to attack him and the four parents with iron bars and knives. They reportedly managed to escape, despite attempts by the circus owners and the members of the local administration to stop them. **K.S.** was reportedly taken to hospital in Lucknow where he was treated for head injuries and is reported to be in stable condition. It is reported that despite confirmation from the administration of Uttar Pradesh that they would undertake action to release the children from the circus and despite the presence of members of the administration during the rescue operation, no action has been taken.

Observation

191. The Special Rapporteur would like to reiterate her interest in receiving a response from the Government in regard to the allegations submitted.

Indonesia

Allegation letter

192. By letter dated 25 May 2004 sent jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteurs expressed their concern about the trafficking of women and the sale of children taking place in the region.

According to information received, poor young Indonesian women are being trafficked to Malaysia. It is reported that there are also cases of pregnant Indonesian women being trafficked to Malaysia for the purpose of selling their children after they are born for illegal adoptions. The information received on the dynamics of the phenomenon reveal that agents of the trafficking network approach poor women, reportedly offer them a small amount of money, called "milk money" (Rp 150,000, equal to US\$17). The money is used to buy milk and other needs for the mothers. Then the agents reportedly take the babies from their mothers and put them in a house without allowing the mothers to breastfeed them. The babies are then allegedly transported to Johor by speedboat, often packed in fish boxes. Other members of the trafficking network wait in Johor harbour. After housing the babies for a day, they allegedly arrange a "meeting" with prospective parents. For one trip to Singapore with babies for sale, the trafficking network reportedly receives around US\$ 3,000-3,500 and to Malaysia, approximately US\$ 9,530. According to the Malaysian and Indonesian police, there were 179 cases of such trafficking in 2001 and 155 cases in 2002.

193. Some specific situations had been brought to the attention of Special Rapporteurs.

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

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

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

Allegation letter

197. By letter dated 16 August 2004, sent jointly with the Special Rapporteur on torture, the Special Rapporteur notified the Government that she received the following allegations.

198. **Three hundred people from one settlement area in Pidie** were forced by Indonesian National Army (TNI) and the Police Mobile Brigade (Brimob) personnel to gather on 13 June 2003. They were ordered to line up and perform physical exercise for at least 4½ hours. Among those forced to perform physical exercise were 90-year-old men, and women, and children. Many of them were reportedly severely beaten. As a result, 72 people were subsequently taken to the public hospital in Sigli. **U.B.U.** aged 32, and **M.A.** aged 21, who were suspected of belonging to the Free Aceh Movement (GAM), were reportedly killed on the spot. It is reported that three

weeks later in another joint TNI-Brimob operation the men were lined up, questioned, and hit with rifle butts. Seven women were accused of being members of the GAM women's wing, and reportedly forced to strip in public.

Allegation letter

199. By letter dated 16 November 2004 sent jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteur informed the Government that she had received information that rape was systematically used by the TNI and the Polri (Indonesian Police Forces) as a means to terrorize the population of Aceh. The Special Rapporteur had received the following rape cases allegedly perpetrated by Indonesian security forces in Aceh between June and August 2004.

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

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

202. **S.H.**, aged 22, a midwife from Paloh Panyang village, Gandapura district, Bireuen regency, is reported to have been raped because she was suspected of helping GAM members with medical treatment, and with their wives' deliveries.

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

204. **S.H** aged 12, from Ara Bungong village, Samalanga, was reportedly raped by soldiers.

205. **Y.A.R.**, aged 20, from Gampong Hagu village, Samalanga, is reported to have been raped by soldiers.

206. **Five women**, aged between 15 and 22, from Meulaboh, West Aceh, were reportedly raped between July and September 2004 by TNI and Brimob personnel posted in Tjalang and Meulaboh.

Follow-up to previously transmitted communications

207. By letter dated 8 September 2004, the Government replied to a letter sent jointly with the Special Rapporteur on extrajudicial, summary and arbitrary executions regarding **S.** and **S.** (E/CN.4/2004/66, para. 69). The Government reported that A.R.D. had filed a written report at the Berrwah police station about the kidnapping of his two daughters, **S.** and **S.**, allegedly by two "renegades", **M.M.M** son of **G.R.M.**, resident of Reyar and **M.A.W.**, son of **G.R.W.**, resident of Khospora. During the course of the investigation, **S.**, the younger daughter, was released.

However, the older daughter continued in captivity. Both the accused were arrested. M.A.W. is presently in custody under the Public Safety Act while M.M.M. is in police custody.

Observation

208. The Special Rapporteur thanks the Government for its response and would appreciate receiving information on any prosecutions undertaken against the alleged perpetrators.

Iran (Islamic Republic of)

Allegation letter

209. By letter dated 11 June 2004, sent jointly with the Special Rapporteur on torture, the Special Rapporteur advised the Government that she had received information on the formation of "the Headquarters to Pre-empt and Combat Special Offences". It is reported that different agencies, such as "the paramilitary Bassij force of the Revolutionary Guards, the State Security Forces, the Headquarters to Enjoin Virtue and Prohibit Vice" and other agencies who act as judicial enforcers are to join this new institution. It is reported that new measures against women would be introduced for "combating vice and improper veiling", and special agencies to crack down on women who are transgressing social norms have expanded. In addition, the Organization of State-Sanctioned Punishments, which is said to be officially responsible for public floggings and similar punishments, announced that it had established the first branch of "State punishments for women" in Iranian Kurdistan to issue verdicts for "offences reported in connection with women" (*Jomhuri Islami Daily*, 1 June 2004). The Special Rapporteurs expressed their concern in regard to the reported new measures and appealed to the Government to take all appropriate measures to eliminate discrimination against women and guarantee the ir right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Government reply

210. By letter dated 29 June 2004, the Government reported that the communication does not contain any violation of human rights. They stated that establishing an organizational structure does not substantiate human rights violations. They explained that State-Sanctioned Punishment is principally established for goods and commodities prices containment and preventing irrational rises in prices. This entity has nothing to do with social matters, i.e. dealing with improper veiling of women. According to the *Johouri Islami Daily* of 1 June 2004, the first branch of the State-Sanctioned Punishment organization has been dedicated to those cases of price-related issues of which at least one side is female to prevent any discrimination against women in business activities, which are mostly male-dominated. This should be regarded as a step to maintain women's rights.

Allegation letter

211. By letter dated 17 September 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture, the Special Rapporteur notified the Government that she had received allegations concerning **A.R.**, 16 years old, who was reportedly publicly hanged on 15 August 2004 on a street in the city centre of Neka, in the northern Iranian province of Mazandaran. She had been sentenced to death

approximately three months before by a lower court in Neka for "acts incompatible with chastity", following an alleged sexual relationship outside marriage. The case reportedly attracted the attention of the head of the judiciary for Mazandaran province, who allegedly ensured that the case was promptly heard by the Supreme Court, which upheld the death sentence. It has been brought to the Special Rapporteur's attention that A.R. was not mentally competent. It is indeed alleged that she was mentally ill, both at the time of the incident and during her trial. It is further reported that she was not represented by a lawyer at any stage of her trial and that she consequently defended herself. Besides, although her national ID card stated that she was 16 years old, the Mazandaran judiciary announced at her execution that she was in fact 22. Her co-defendant, whose name is not known to the Special Rapporteurs, was reportedly sentenced to 100 lashes and released after the sentence was carried out.

Government reply

212. By letter dated 21 October 2004, the Government reported that A.R. was arrested for the fourth time on 2 May 2004 and charged with "acts incompatible with chastity". Based upon her confessions, she was sentenced to death according to articles 63-70 and 90 of the Penal Code. The sentence was upheld by the Supreme Court and was carried out on 15 August 2004. The Government stated that she had legal counsel throughout the proceedings and that evidence had been introduced indicating that she was 22 years of age. No evidence of physical or mental incompetence was mentioned during the proceeding.

Allegation letter

213. By letter dated 10 November 2004 sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur advised the Government that she had received the following information.

214. **M.A.**, editor of *Ferzaneh*, a magazine on women's issues. According to the information received, she was arrested and detained on 1 November 2004 upon her return from abroad. Police reportedly searched her home in the capital, confiscated her computer and other items. It is further reported that the nature of the accusations brought against the journalist was not clear.

215. **F.G.**, who works for the daily *Etemad* and writes about women's issues. According to information received, she was arrested on 28 October by the Tehran morality squad (*Edareh Amaken*) when she answered a summons to appear before the Ninth Chamber of the Tehran Prosecutor-General's-Office. Authorities did not provide any information about why she was arrested or where she was being held, but it is reported that her arrest may be linked to her activities in the field of women's rights. In 2001, F.G. wrote a letter to the Iranian authorities in which she criticized the violation of women's rights in the country and called for the release of **A.N.**, a woman who had been sentenced to death.

Urgent appeal

216. On 5 February 2004, the Special Rapporteur sent an urgent appeal concerning **M.N-K.M.**, aged 25. According to the information received, M.N-K.M. was arrested in September 2002, following an investigation into the murder of M.K., a man she had allegedly planned to marry after her divorce had been finalized. In police custody she reportedly confessed and was

subsequently charged with premeditated murder and served with an official arrest warrant by the Tehran Criminal Court. It is alleged that she did not have a lawyer present at the time of her interrogation and confession. At her trial, in February 2003, M.N-K.M. retracted the confession and insisted that she was innocent, saying that after her arrest she was afraid and did not know what she was saying. The only supposed eyewitness also retracted his statement incriminating her.

217. M.N-K.M. reportedly gave a statement that she had seen her husband shoot M.K., after he found out that she planned to marry him after their divorce. Neither he, nor any other suspect in the case, was investigated. M.N-K.M.'s father has reportedly been trying to appeal for a retrial, and has lodged a complaint with the Article 90 Commission, a parliamentary body responsible for investigating individual public complaints about parliament, the executive or the judiciary. M.N-K.M. was sentenced to death in February 2003 for the premeditated murder of M.K. His heirs have demanded the death penalty, as "retribution in kind".

218. Her death sentence has been confirmed by the Supreme Court and passed to the Tehran Criminal Court Unit for Enforcement of Judgements. After being confirmed by the Supreme Court, death sentences imposed for murder can only be commuted if the victim's heirs forgo their right to "retribution in kind" (*qisas-e nafs*) and ask instead for the payment of blood money (*diyeh*); or if the head of the judiciary invokes his power to revoke a finalized verdict if it is flawed, and refers the case to another court. The Special Rapporteur expressed her concerns that M.N-K.M. might be executed at any time.

Urgent appeal

219. On 30 April 2004, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers concerning **K.R.**, aged 23, who was reportedly at risk of imminent execution by hanging. She had reportedly been detained in Evin Prison in Tehran for 3½ years, 20 months of the time said to have been on death row. According to information received, K.R. was arrested in November 2000, detained and interrogated without access to a lawyer, and subsequently convicted of "intentional murder" of her mother-in-law based solely on a confession obtained in the absence of legal counsel. However, according to information received, the incident leading to the victim's death was neither premeditated nor instigated by K.R. It is further reported that the judge was also the investigator and approved the charges as the prosecution service was allegedly suspended at the time of this case. There is concern that the trial, which was closed to the public after the first hearing, did not comply with internationally recognized standards of due process and fair trial.

220. According to information received, the head of the Iranian Judiciary has the power to revoke her conviction; however, it is alleged that the judicial authorities have confirmed that all legal proceedings in K.R.'s case are completed and that the sentence can only be commuted if the victim's heirs forgo their right to retribution and seek payment of blood money (*diyeh*) instead. It is reported that after a death warrant for K.R. failed to be carried out on 1 January 2004, due to technical errors, the head of the judiciary agreed to a temporary reprieve of her execution, granting her a short time to appeal to the victim's heirs. However, reports indicate that the victim's heirs contacted the judicial authorities on 12 and 13 April 2004, to again insist on K.R.'s execution.

Urgent appeal

221. On 20 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief, and the Special Rapporteur on torture, regarding **J.I.**, aged 13. She was sentenced to death by stoning in Marivan for adultery, and is at risk of imminent execution. According to the allegations received; she was raped by her 15-year-old brother and became pregnant. She gave birth to her baby in early October. It is reported that J.I. will not have the possibility to appeal the sentence which is said to be carried out in the coming days. Her brother was sentenced to 100 lashes, in accordance with Islamic law. He is currently in prison in Tehran awaiting his punishment.

Government reply

222. By letter dated 28 October 2004, the Government reported that J.I. and her brother had been acquitted of adultery because they were minors. The sentence of death by stoning is categorically denied.

Urgent appeal

223. On 16 November 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on torture, and the Special Representative of the Secretary-General on the situation of human rights defenders regarding **M.A.**, a women's rights activist, and editor of *Farzaneh*, and Director of the NGO Training Centre. She was already the subject of a letter dated 10 November 2004 sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (see para. 214 above).

224. According to the information received, M.A. was arrested at her home on 1 November 2004 on the order of the Prosecutor General of Iran. Since her arrest, she has reportedly been detained and held incommunicado. To date, no formal charges have reportedly been brought against her but she is being interrogated about her presentations at international meetings, including her address to the Asia Pacific Women's Watch Beijing+10 NGO Forum in July 2004, and her contacts with international women's rights activists. In view of her alleged incommunicado detention, concern is expressed that she may be at risk of torture or other forms of ill-treatment. Moreover, concern is expressed that the arrest of M.A. may be aimed at preventing her from continuing to speak out and publish on women's rights in Iran.

Government reply

225. By letter dated 20 December 2004, the Government reported that M.A. was detained for her activities against the State and inspiring immoral acts in society. She was released on bail.

Urgent appeal

226. On 3 December 2004, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on torture regarding **H.E.** aged 35 and mother of two, and **R.M.G.** aged 22, from the town of Jolfa. According to the allegations received, they were at risk of imminent execution. On 16 January 2000, H.E. was sentenced to death by hanging by the 3rd Branch of the Public Court of Jolfa for adultery, for assisting in the premeditated killing of her husband. R.M.G. then aged 17, was sentenced to hang for his role. The 37th Branch of the Supreme Court of Justice later amended the sentence against H.E. to stoning, which was scheduled to be carried out on 1 September 2004. Following an appeal, the Supreme Court of Justice upheld the sentence. The sentences were expected to be carried out within the next three weeks.

Government reply

227. By letter dated 13 January 2005, the Government indicated that H.E. was charged as an accomplice to her husband's murder and was sentenced to death. Upon rejection of her appeal by the Supreme Court, she requested to be pardoned. Her request was under consideration and her sentence had been suspended.

Urgent appeal

228. On 13 December 2004, the Special Rapporteur sent an urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on torture concerning **L.M.**, aged 19, who was facing imminent execution for "morality-related" offences. She was to be flogged before she is executed. Concern was expressed that she had been sentenced to death for crimes she would allegedly have committed when she was under 18 years old.

229. On 28 November 2004, she was sentenced to death by a court in Arak when she was 18, on charges of "acts contrary to chastity", including running a brothel, having intercourse with blood relatives and giving birth to a child out of wedlock. It is reported that IQ tests have revealed that she has the mental age of an 8-year-old. However, she has apparently never been examined by the court-appointed doctors, and was sentenced to death solely on the basis of her explicit confessions, without consideration of her background or mental health. She was reportedly forced into prostitution by her mother at the age of eight, and bore several children as a result. She was also repeatedly raped, sold into marriage, and subsequently forced into prostitution by her spouses.

Follow-up to previously transmitted communications

230. By letter dated 11 June 2004, the Government responded to a letter dated 24 November 2003, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on torture, concerning **seven women** (E/CN.4/2004/66/Add.1, para. 100). The Government reported that four men and two women were accused of behaviour repugnant to the public. Action was taken by the provincial court and the accused were sentenced to lashes. The sentence had not yet been carried out.

Observation

231. Following her official visit to the country (29 January – 6 February 2005), the Special Rapporteur recommends that the Government of the Islamic Republic of Iran: prioritize law reform to amend all discriminatory laws and bring them into conformity with the Constitution and international human rights instruments to which the Islamic Republic of Iran is a party; ensure transparency, including through the provision of dates and procedure, for the implementation of measures for judicial reform that are currently being discussed to improve administration of justice for women; work towards alternative forms of punishment orientated towards prevention and rehabilitation rather than revenge, and in this context abolish the death penalty; until then, following credible reports of violations of the right to fair trial and discrimination against women, carefully review the evidence against all detainees sentenced to death; adopt effective measures to ensure the observance of safeguards to protect the rights of detainees; investigate allegations of torture, punish the culprits and take measures to prevent its recurrence; adopt a national action plan for promotion and protection of human rights with special emphasis on the elimination of violence against women; conduct awareness-raising campaigns, including through written and visual media, to promote positive images of women and educate the population about human rights and the elimination of violence against women; engage in "cultural negotiation" at all levels of society to bring out the positive elements in culture and tradition and discourage the negative ones; promote the participation of women in society and increase the number of women in decision-making positions in all sectors.

Kuwait

Urgent appeal

232. On 15 July 2004, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance concerning **A.M.Al-D.**, aged 27 and male by birth, who underwent sex-change surgery in 2001 and changed his name from Ahmed to a women's name. She wishes to be addressed in accordance with her female status. It is reported that the subject caused constant friction and conflict with her family. She was asked to leave Kuwait University, was subjected to constant harassment and not allowed to work. She reportedly presents classical symptoms of gender identity disorder, with psychosocial stressors including family difficulties, stress at work and study environment and difficulties coping with societal pressure. In view of these circumstances, she tried to commit suicide three times. It is reported that she went to court regarding her legal status following her sex change. She was later told that her lawyer had conducted an interview with the local media regarding her case without her consent. She is said to have taken the newspapers to court regarding the negative reports published about her. However, a group reportedly filed a request on behalf of society and on religious grounds that the case be rejected. On 23 June 2004 the judge is said to have postponed the final judgement until 7 September 2004. In this context, fears have been expressed for her physical security and access to justice owing to discrimination on the basis of her sex.

Government reply

233. By letter dated 9 September 2004, the Government reported that **A.M.Al-D.A.** presented a request to the judiciary on 7 June 2003 that his sex change be recognized. The court approved his request and confirmed his right to change his sex in a decision dated 24 April 2004. The Government stated that the decision confirms the fairness of the Kuwaiti judiciary and its independence, allowing a person to exercise their right to change sex and not be subjected to any discrimination.

234. In regard to the allegations in the letter sent by the Special Rapporteurs that **A.M.Al.D** was humiliated and discriminated against at work, leading to his dismissal, the Government affirmed that the dismissal was not based on discrimination but was in accordance with laws governing public service in Kuwait. In regard to the allegations that he suffered harassment by his family, they stated that it is not possible for the Government to intervene in such issues.

Observation

235. The Special Rapporteur thanks the Government for its response and would like to express her satisfaction concerning the court's ruling.

236. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Elimination of Discrimination against Women (A/59/38, para. 78) at the lack of information about the prevalence and forms of violence against women and girls, including domestic violence, and about the programmes and services available to victims of violence in Kuwait).

Lao People's Democratic Republic

Allegation letter

237. By letter dated 15 September 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Rapporteur on torture, the Special Rapporteur notified the Government that she had received the following allegations concerning four girls, **M.L.**, aged 14, her sister **C.L.**, aged 16, **C.H.**, aged 14, **P.L.**, aged 14, and her brother, **T.L.**, aged 15, all indigenous persons. On 19 May 2004, the five children, who were searching for food close to their camp, were attacked and killed by 30 - 40 ethnic Lao soldiers in the Xaisomboune military zone. The girls were raped before being killed. **M.L.** was shot in each breast and the other bodies were mutilated by shots fired at close range. One of the girls was disembowelled.

Government replies

238. By letters dated 19 October, 10 and 18 November 2004, the Government reported that the allegations were found to be groundless and that no such incident had occurred. On 6 October 2004, the video footage dated 19 May 2004, the source of the allegations, was carefully analysed by the authorities, who found many conflicting points. They stated that the allegations were not matched by the contents of the film for, among other things, there was no picture of the victims

being mutilated, no evidence of rape, lack of evidence of a gun being used, no movement of soldiers, few relatives of the victims were crying, no word of any involvement of soldiers, no indication of where the incident actually occurred. It was concluded that the video had been fabricated. No complaint has been brought to the concerned authorities at any level, including the Commander in Chief of the Lao People's Army in the Xaisomboune Special Zone or the Governor of Xiengkhuang Province, both of whom are indigenous persons themselves. The allegations of violations of human rights against the indigenous persons (the Hmong) were fabricated with the aim of discrediting the good image of Laos in the international arena. They emphasized that Hmong, as result of constructive government policy aiming at peaceful coexistence of ethnic groups, play an important role in the country's social and economic development.

Observation

239. The Special Rapporteur thanks the Government for its response. However, she would like to remind the Government of its duty to thoroughly investigate the allegations of violence against women even in the absence of a formal complaint.

Malaysia

Allegation letter

240. By letter dated 18 May 2004 sent jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteurs expressed deep concern at information received about trafficking of women and sale of children taking place in the region. According to information received, poor young Indonesian women are being trafficked to Malaysia. The details are described in paragraph 192 above.

241. Some specific situations have been brought to the attention of Special Rapporteurs.

242. In the past two years the Malaysian police are said to have uncovered at least 20 cases of baby selling in Sarawak, East Malaysia. The details are described in paragraph 194 above.

243. In September 2003 a fishing boat from the Indonesian island of Tanjung Balai Kaimun heading towards Malaysia was allegedly intercepted carrying eight babies packed in Styrofoam (see para. 195 above).

244. On 17 September 2003, a woman from Central Java, Indonesia, was lured to Malaysia and became a victim of trafficking (see para. 196 above).

Follow-up to previously transmitted communications

245. By letter dated 4 March 2004, the Government responded to a letter sent on 6 November 2003 jointly with the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative on the situation of human rights defenders (see E/CN.4/2004/66/Add.1). The Government reported that **I.F.** was found guilty of maliciously publishing false news and sentenced to one year's imprisonment. However, the court allowed a stay of execution pending her appeal to the High Court and granted bail in the amount of RM

3,000 with one surety. In 1996, when Mrs. F. was first charged, the court ordered her to surrender her passport, a routine procedure in cases where there is a risk of flight. Ms F.'s passport has since lapsed, and her application for a new passport has been denied on the grounds that the case is still sub judice.

Observation

246. The Special Rapporteur thanks the Government for its reply concerning I.F. However, she would appreciate receiving additional information on the outcome of the legal proceedings before the High Court. She would also like to receive information on the allegations submitted to the Government this year.

Maldives

Urgent appeal

247. On 6 October 2004, the Special Rapporteur sent an urgent appeal jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on torture regarding **I.A.** and **J.L.**, respectively employees of a television company and video film producer, both of whom have been working to draw attention to human rights concerns.

248. According to the information received, I. A. who is also an activist for the political opposition, was arrested at his home at around 10 p.m. on 17 September 2004 and was being held without charge and without access to a lawyer. He was being questioned about organizing a peaceful political meeting in July 2004 in the guise of a birthday party. It was also alleged that he was arrested because of his involvement in a civil society network which monitors the conditions of detention of those arrested following the August demonstrations, to ensure that their human rights are protected. From mid-August 2004 until his arrest, I.A had been interviewing those who had been released from detention to document human rights violations against detainees and has been helping families of the detainees to draft letters to the authorities requesting to visit the detainees.

249. According to information received J.L., who has particularly focused on the prevalence of sexual abuse in the country, was reportedly arrested in front of the National Security Services on 13 August 2004, as the Government broke up a demonstration with baton charges and tear gas. She was reportedly being detained at the Dhoonidhoo interrogation centre. She was denied access to family members until 17 September 2004. It was also reported that, during her detention, the police kicked her in the back numerous times whilst she was blindfolded. She was reportedly detained the first time on 22 September 2003, for her part in a protest against the killing of Evan Naseem on 19 September 2003 and the killing of three other prisoners and the fatal injuring of others on 20 September 2003 in Maafushi.

Government reply

250. By letter dated 27 October 2004, the Government reported that that **J.L.** had been arrested in connection with the investigation into the mob violence of 12 and 13 August 2004.

The investigations having been completed, she was transferred to house arrest on 26 October 2004. The Government stated that in accordance with the laws of the Maldives, charges will be filed against her soon and that she would be provided with a fair and impartial hearing.

251. Concerning I.A., the Government indicated that he had been arrested in connection with the investigation into the mob violence of 12 and 13 August 2004 and that his arrest had nothing to do with his involvement in a civil society network. The Government stated that as soon as the investigations were complete, he would either be charged or released.

Observation

252. The Special Rapporteur would like to thank the Government for its response. However, she would appreciate receiving additional information on the legal proceedings against the above-named persons.

Mauritania

Appels urgent

253. Le 2 décembre 2004, la Rapporteuse spéciale a envoyé un appel urgent, conjointement avec la Représentante 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, concernant la situation de neuf femmes membres du Collectif des familles de détenus, **EI M. M. M. E., R. F., K. M. M., T. M. O., M. M. N., F. M. K., M. F. M. C., M. M. H. et F. M H.**

254. Selon les informations reçues, sept d'entre elles auraient été arrêtées le 21 novembre 2004 par la gendarmerie, lors de l'ouverture de la première audience du « procès des putschistes », présumés auteurs de la tentative de coup d'Etat des 8 et 9 juin 2003, dont elles seraient les proches. Elles auraient été conduites à la brigade d'Ouad Naga où elles auraient été parquées sous le soleil et à même le sol pendant toute la journée du 21 novembre. **M. M. H. et F. M. H.** auraient quant à elles été arrêtées le 22 novembre 2004, alors qu'elles protestaient contre des gendarmes qui semblaient vouloir maltraiter une femme âgée à la sortie de la salle d'audience. Le même jour, Mme **M. M. N.**, enceinte, aurait été libérée mais aurait, de nouveau, été arrêtée le 29 novembre au soir. Sans avoir été informées des raisons de leur arrestation, elles auraient été interrogées à plusieurs reprises sur les raisons pour lesquelles deux membres du Collectif des familles de détenus participaient à la 36^e session de la Commission africaine des droits de l'homme et des peuples (CADHP). Le 30 novembre 2004, après avoir finalement été accusées de « distribution de tracts » et de « menaces de mort », elles auraient été transférées à la prison des femmes de Nouakchott. Toutes les autorisations de visite demandées par leurs proches leur auraient été refusées. **R. F.**, enceinte, souffrirait depuis le début de sa détention de douleurs dans la poitrine.

Réponse du Gouvernement

255. Par lettre en date du 7 janvier 2005, le Gouvernement a transmis la réponse suivante. Ces personnes ont été arrêtées pour des motifs prévus et sanctionnés par les articles 204 (outrage à magistrat) et 281 (menace de mort) du Code pénal. Elles ont été informées des raisons de leur

arrestation et traitées avec humanité. Il n'a pas été porté atteinte à leur intégrité physique et psychologique et le droit de visite de leurs familles et de leurs avocats a été respecté. La référence à leur sexe n'est pas pertinente car elles ont été détenues sur une base juridique claire et pour des motifs n'ayant aucun rapport avec ce fait. Ces motifs ne peuvent être assimilés ni de près ni de loin à des « actes de violence à l'égard des femmes ». Pour le moment, les femmes en question ont bénéficié d'une liberté provisoire. Sur le fond, elles auront l'occasion de présenter leur cause lors d'un procès public et équitable au cours duquel toutes les garanties nécessaires à leur défense seront assurées.

Observation

256. La Rapporteuse spéciale remercie le Gouvernement pour sa réponse. Néanmoins, elle souhaiterait obtenir des informations plus précises sur les investigations qui ont conduit le Gouvernement à conclure que ces femmes n'avaient pas fait l'objet de mauvais traitements.

Mexico

Observaciones

257. La Relatora Especial desea expresar su gratitud por la información detallada enviada por el Gobierno sobre las medidas tomadas en el año 2004 para eliminar la violencia contra la mujer en México. En particular, la Relatora Especial celebra las acciones tomadas tanto a nivel Federal como Estatal, en respuesta a las recomendaciones realizadas por varias organizaciones internacionales en relación a la situación de la mujer en el Estado de Chihuahua y Ciudad Juarez.

258. La Relatora Especial desea agradecer al Gobierno por su invitación a visitar México dentro del marco de su mandato. La misión se llevará a cabo del 20 al 26 de febrero de 2005.

Myanmar

Allegation letter

259. By letter dated 16 September 2004, sent jointly with the Special Rapporteur on torture, the Special Rapporteur advised the Government that she had received information regarding a **woman from Naa Pao village**, Naa Pao village tract, Kaeng-Tung township. She was reportedly stopped by State Peace and Development Council (SPDC) troops from the the Light Infantry Battalion (LIB) 580 on 9 February 2004 at about 4 p.m., at approximately two miles north of Mung Lung village. She was forced to accompany the troops to their camp. There she was reportedly gang-raped by 10 soldiers. She was released the next morning and threatened with death if she denounced what had happened.

Allegation letter

260. By letter dated 21 September 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture, the Special Rapporteur notified the Government that she had received the following allegations.

261. **N.K.**, aged 30, and her husband, **Z.Y.**, aged 40, both originally from Nawng Hai village, Kho Lam village tract, but forcibly relocated to Kho Lam village relocation site in 1997. On 17

September 2003, Z.Y. was taken away from their farm by a group of men believed to be SPDC soldiers. Half an hour later, a patrol of approximately 50 SPDC troops from Infantry Battalion (IB) 246 came to the farm and interrogated N.K. about the whereabouts of her husband. When she told them that he had been abducted by unknown soldiers, she was accused of being the wife of a Shan soldier. She was reportedly beaten, kicked and gang-raped. She lost consciousness several times. After the troops left the farm, some villagers assisted her. As her condition worsened after this assault, she eventually fled to Thailand to receive medical treatment. She reportedly died on 29 March 2004 in Chiangrai provincial hospital, in Thailand. As far as the Special Rapporteurs have been informed, the whereabouts of her husband are still unknown.

262. **N.S.** and **N.L.**, two 17-year-old girls from Saai Murng quarter in Ta-Khi-Laek town. They were stopped by a group of three SPDC troops near Ta-Khi-Laek town on 22 August 2003, when they were going by motorcycle to a pineapple orchard. They were severely kicked and beaten by the troops, who took the motorcycle away. The two girls were later found unconscious by some villagers and taken to a hospital. N.S. died the same night. A complaint was lodged with the SPDC authorities at Ta-Khi-Laek township. As far as the Special Rapporteurs have been informed, no action has been taken to investigate the case.

263. **S.Z.-N.** a 45-year-old villager from Pang Sa, and his pregnant wife, **N.N.**, as well as another woman, **N.Z.** S.Z.-N. was shot dead by a patrol of SPDC troops from the 55th Division near Paang Sa village, Loi La village tract, Nam-Zarng township, on 23 August 2003, when he was fetching water from the Nam Taeng river. On 26 August 2003, a column of the same SPDC troops arrested N.N. in Paang Sa village and took her to Ta Zao Murng, a Nam Taeng river harbour. Another woman, N.Z., encountered on their way, was taken with them. Once there, the two women were interrogated about boats in the area and severely beaten with bamboo sticks. They were also threatened with death. They were later released. As a result of the beatings, N.N. suffered from internal injuries and had a miscarriage.

264. **N.K.** aged 22, and her sister, **N.L.** aged 19. They were raped by a patrol of SPDC troops from Lai-Kha-based LIB 515 on 16 October 2003, when they were harvesting rice at their farm in Wan Zing village tract. Their father was tied to a tree. Afterwards, the two sisters were taken to a forest by the troops. Their dead bodies were found by villagers some days later, dumped in a hole.

265. **N.S.**, aged 20, and her husband, **Z.L.** aged 23, both originally from Zizawya Khe village in Wan Thi village tract but relocated to Lai-Kha township in 1997. They were approached on their farm in Wan Thi village tract by about 40 SPDC troops from Co. 3 of IB 64 on 26 November 2003. Z.L. was tied up outside the farm and N.S. was gang-raped by the troops. She was later taken with them. Z.L. and other villagers went to the base of IB 64 to inquire about her, but were not allowed to enter the base. Three days later, N.S.'s body was found near the farm.

266. **P.O.**, a 40-year-old woman with mental disability, originally from Khur Nim village but who had been forcibly relocated to Maak Laang village. In late 2003, she was forcibly seized by SPDC troops from LIB 515 in Maak Laang village. She was dragged out of the village and gang-raped by the soldiers. She reportedly died four days later.

267. **N.Z.**, an 18-year-old woman living in the suburban area of Murng-Su town. On 25 April 2004 she was forcibly taken away from her residence by about 15 SPDC soldiers to a nearby forest. She was gang-raped and stabbed to death by the soldiers.

Urgent appeal

268. On 20 April 2004, the Special Rapporteur sent an urgent appeal jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in Myanmar concerning two rape victims, **M.S.S.A.** and **M.A.M.S.**, who were imprisoned for attempting to charge the alleged perpetrator of the crime. They were allegedly raped on 25 and 26 November 2002, respectively, in Pyapon township, Ayeyawaddy division, by the Chairman of the ruling village Peace and Development Council. **M.S.S.A.** was reportedly aged 15 at the time of the incident. On 19 December 2002, the alleged perpetrator was charged with rape. However, it is reported that he was not arrested, nor was he brought before an official judicial body. Instead, the police sought the advice of the Pyapon District Law Office, which allegedly recommended that the charges against this official be dropped and that charges be brought against the two women for falsely accusing a government officer. On 20 October 2003, the two women were sentenced to four years' imprisonment on charges of falsely accusing a government officer. During the trial, **M.S.S.A.**, still a child, was reportedly treated as an adult. The source adds that this incident is part of a larger pattern of rape with impunity by officials and soldiers, which can, as in this case, even lead to the prosecution of the victims.

Government reply

269. By letter dated 22 October 2004, the Government reported that on 21 November 2002, **M.S.S.A.** and **M.A.M.S.** were summoned and given warning by the Village Peace and Development Council Chairman when village heads reported their indecent behaviour with a man in an abandoned house. On 26 November, they filled a complaint at the police station in Kyonkadoon village against another man for having raped them. The two women allegedly blackmailed the daughter of the man to withdraw the complaint against her father. The man then filed a complaint against the girls for blackmail. They were found guilty and sentenced to four years' imprisonment on 23 October 2003. The man they accused is aged 76. He has always been actively involved in the social and religious affairs of the village. He has no background of misconduct throughout his life.

Observation

270. The Special Rapporteur would like to thank the Government for its reply. While acknowledging that the accused has always been actively involved in the social and religious affairs of the village, the Special Rapporteur would like to stress that this should not prevent the authorities from conducting a proper investigation into the accusations brought against him.

Nepal

Allegation letter

271. By letter dated 18 May 2004 sent jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteurs expressed their

concern at the alleged social and economic discrimination faced by **Badi women and girls**. According to information received, the Badis, who are said to number tens of thousands across western Nepal, are one of 36 castes who make up Nepal's untouchables. It is reported that Badi women and girls, due to the discrimination, stigma and vulnerability inherent in the caste system, are forced to work in prostitution. Badis migrated to Nepal from India some three centuries ago. They made drums and musical instruments, fished and danced and sang. They would go to the homes of landlords, or *zamindars*, to entertain at social ceremonies, in return for food. In time, the *zamindars* allegedly claimed some of the girls as concubines. They would reportedly use them and then abandon them when they had children. It is reported that fatherless children have few rights and that it can be difficult to register their births, and obtain citizenship, school admission, the right to vote, and health care. In this situation daughters reportedly end up entering prostitution like their mothers, as a means of survival. Concerns have also been expressed that these women and girls are particularly vulnerable to HIV infection due to their status in society. It is reported that many Badi women refuse to be tested for fear that a positive result would further stigmatize them and their community.

Allegation letter

272. By letter dated 17 August 2004, the Special Rapporteur advised the Government that she had received information that a writ petition (Writ No. 55 of the year 2058 BS (2001-2002)) had been filed challenging the constitutionality of the definition of rape in the Country Code, 1963, stating that the Constitution of the Kingdom of Nepal, 2047 has guaranteed the right to equality and affords equal protection of the law to all the citizens of Nepal. In delivering its ruling in this case the Supreme Court of Nepal interpreted marital rape as a crime and issued a directive to the Ministry of Law, Justice and Parliamentary Affairs to introduce a bill to provide immediate relief by allowing a wife to live separate from, or to divorce, a rapist husband; prescribing the degree of the offence of rape committed in the circumstance of child marriage; and by making legal provision for a comprehensive, justifiable and appropriate solution with regard to marital rape, taking into account the special situation of the marital relationship and the position of the husband. The decision was delivered on 2 May 2002. Consequently, marital rape has been declared an offence in Nepal; however, the law has not been amended to date and the Government of Nepal has reportedly not taken any initiative in this regard.

273. While welcoming the judicial interpretation of marital rape as an offence, the Special Rapporteur encouraged the Government to take all necessary steps to amend the law on rape to include marital rape in the definition of rape and specifically to prescribe punishment for the same. In order to provide comprehensive protection, the amendment to the definition should include all forms of sexual abuse and should not be restricted only to vaginal penetration.

Allegation letter

274. By letter dated 17 November 2004 sent jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteur advised the Government that she had received information concerning **S.S.**, a Dalit girl aged 14, from Inaruwa, Sunsari, who was allegedly raped and then murdered with impunity.

275. On 17 May 2004, at around 11.00 p.m., a group of more than 10 masked men entered her family home. They tied up S.S.'s father, T. S. and held him down on the floor. Then several men went to the room where S.S. and her mother, Ms. R.S., were sleeping and dragged them out of the house and raped S.S. After the masked men left, T.S. and the neighbours searched and finally found the mother lying unconscious. She was taken to the hospital. On 18 May 2004, villagers found one of the alleged perpetrators, whose name is known to the Special Rapporteur. He was reportedly sleeping under a bridge far from the village, his shirt was stained with blood and the bamboo sticks used in the attack were scattered around him. Villagers took him to the Inaruwa District Police Office. Upon his arrest, he reportedly confessed that he and his friends had gone to the victim's house. On 19 May S.S.'s naked body was found. According to the post-mortem report conducted at the District Hospital at Inaruwa, she had been raped and then killed by suffocation. The police reportedly arrested the group of more than 10 men named by the villagers and the family as the perpetrators. However, the majority of the suspects were released on the same day following protests made on their behalf by their families and relatives. One suspects are reported to belong to upper-castes families, and are sons of landlords in the village. It is reported that no further investigation was conducted. The suspect, who was held in police custody for two months, was reportedly released when an alibi was established. Due to fear for their security Ms. S.'s family has been forced to leave the village.

Allegation letter

276. By letter dated 29 November 2004 sent jointly with the Special Rapporteur on torture, the Special Rapporteur advised the Government that she had received information concerning **S.M.**, a 16-year-old girl, resident of Bharaul-5, Bishalchowk, Bhaluwachauri village, Bharaul Village Development Committee (VDC)-5, Sunsari district.

277. On 10 November 2004, around 9 a.m., as S.M. was walking towards the Sardu Khol river, 500 m from her home, a group of five armed soldiers from Eastern Pritana Headquarters, Itahari, stopped her and dragged her by her hands to the jungle. The soldiers chased away her 7-year-old niece, threatening her with a gun. The girl was taken to Jhosi, where the soldiers forced her to the ground and proceeded to rape her, stifling her screams. Afterwards, the soldiers took the girl to a wooded area behind her house, gave her 100 rupees and a package of noodles, ordered her not to reveal the incident and fled the village. On 11 November, the girl was taken to the Dhara Hospital. The doctors of the Koshi Zonal Hospital have referred her to the Psychiatrist Department, where she is undergoing psychological counselling for her ordeal. The girl's father submitted a First Information Report at the Area Police Office in Dharan on 11 November. No investigation has been carried out by the police.

Urgent appeal

278. On 2 March 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture concerning residents of Pokharichauri village, Kavre district. They were reportedly raped, tortured, killed or taken to unknown locations by plain-clothes security forces personnel on 12 February 2003. **R.R.**, aged 18, was reportedly killed by security forces at around 5.00 a.m. It is believed that she was held for five hours prior to her death in a cow shed, where she was allegedly raped. Bullet wounds to her head, breast and eyes and injuries and scratches on her stomach and chest were found on her naked body. Blood was allegedly found on her underwear.

S.C., aged 17, was allegedly beaten and killed by security forces. Injuries on the right cheek, stomach and below the right eye were found on her body. Her father, **K.N.C.**, was allegedly severely tortured. A young boy, **T.L.**, was reportedly shot dead as well. According to the information received, on the following day the national radio reported that three terrorists, namely **R.R.**, **S.C.** and **T.L.**, had been shot dead during an encounter with the security forces in Pokharichauri village.

279. The Special Rapporteurs were informed that since the above-described incident, witnesses have been subjected to further harassment. It is reported that **M.S.**, a 15-year-old relative of **R.R.**, was arrested by security forces personnel on 17 February 2004. It is thought that the soldiers were actually looking for her mother, **D.S.**, who was allegedly with **R.R.** just before her death. As the security forces could not find **D.S.**, they reportedly arrested her daughter. **M.S.**'s father was reportedly ordered to bring his wife, **D.S.**, to the Lamidada army camp as a condition for **M.S.**'s release. It is further reported that on 18 February 2004, he went to the Lamidada army camp together with **D.S.**, the headmaster, the chairperson of the Village Development Committee (VDC) and 28 other people from the village. However, the army authority reportedly denied that **M.S.** had been arrested and detained.

280. In view of the alleged detention of **M.S.** at an undisclosed location and the reports of recent violence against residents of Pokharichauri village by security forces, serious fears were expressed for her physical and psychological integrity. Concern was also expressed for the safety of alleged witnesses of the above-mentioned killings and acts of torture.

Urgent appeal

281. On 4 March 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture, regarding **R.A.**, a 13-year-old schoolgirl from ward No.8 of Malta VDC, in Lalitpur district. She was reportedly arrested on 13 November 2003 by plain-clothes security forces personnel in Thapathali, ward No. 11 of Kathmandu municipality, where she was allegedly staying with some relatives. The security forces reportedly informed her family that she had been taken for questioning and that she would be returned by the following morning. However, she has reportedly not been released. Soldiers have allegedly confirmed to her relatives that she was being held at Bhairab Nath Gan army camp, in incommunicado detention. According to the information received, the reasons for her arrest are not known and she has not been formally charged or brought before a judge since her reported arrest four months ago. It is further alleged that **R.A.** had already been arrested on 8 September 2003 and held incommunicado at an undisclosed location until 27 October 2003. The reasons for her first detention were not provided. In view of the alleged incommunicado detention of **R.A.**, a minor, concern was expressed that she might be at risk of torture or other forms of ill-treatment.

Urgent appeal

282. On 18 March 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture regarding **N.L.**, a 30-year-old painter. It is reported that following an explosion on 5 March at 9.45 a.m. in the ward office of ward No. 17, Lagankhel, Lalitpur district, a group of civilians detained **N.L.** and handed her over to security forces personnel at the

scene. The Home Ministry has reportedly confirmed that she was arrested; however, her family has not been able to find out where she is being held. In view of the alleged detention of the above-named individual at an undisclosed or unconfirmed location, concern was expressed that she might be at risk of torture or other forms of ill-treatment.

Urgent appeal

283. On 8 June 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture regarding **C.M.M.**, aged 34, of Kathmandu Metropolitan City-4, Chandol. She is the president of a home-based NGO called Mahila Utthan Sangh. C.M.M. was allegedly arrested at her home at 10 p.m. on 31 May 2004 by approximately seven security forces personnel in plain clothes and taken away in a jeep. Prior to taking her they allegedly made her husband, T.B.M., sign a document, with his thumb, which he was not allowed to read. The reason for her arrest and her current whereabouts are reportedly unknown. In view of her alleged detention in an unknown location, concern was expressed that she might be at risk of torture or other forms of ill-treatment.

Urgent appeal

284. On 7 July 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on torture and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **M.S.**, a 15-year-old girl whose whereabouts were unknown since her alleged arrest on 17 February 2004. The Special Rapporteur on torture, the Special Rapporteur on violence against women, and the Special Rapporteur on extrajudicial, summary and arbitrary executions sent an urgent appeal in connection with this case on 3 March 2004, to which no response had been received, and the Working Group on Enforced or Involuntary Disappearances sent one on 16 April 2004. Information was also received concerning **B.B.K.**, a 20-year-old resident of Kharelthok VDC 4 of Kavre, who reportedly witnessed the arrest of M.S. (see para. 286)

285. According to the allegations, B.B.K was arrested by the police of Bhagvati Station on 11 February 2004 at around 10 a.m., when she was returning home from Bhagvati Temple. She was arrested on suspicion of being a Maoist. It is reported that at Bhagvati Police Station she was severely beaten on various occasions and hit with plastic pipes, her head was submerged in water, her knees and feet were slit with a sharp blade and salt and chili powder were sprinkled over the wounds. She was reportedly gang-raped by soldiers for 15 consecutive nights. She is also reported to have been forced to take sedatives. On 18 February 2004 she was taken to Bhagvatisthan and forced to show to the police M.S.'s house. M.S. was arrested and they were both taken to Shantigate Army Barracks and to Panchkal Centre, where they were kept in separate rooms and beaten. B.B.K later reported that she had heard M.S. screaming. On 19 February 2004, B.B.K. was taken to Dhulikhel Police Station and has not seen M.S. since then. Whenever she asked police about her location and condition, she was given a different answer. On one occasion she was told that M.S. had been killed. On 24 March 2004, B.B.K. was transferred from Dhulikhel Police Station to a Women's Prison. No detention warrant has been issued by any judicial authority. It is reported that a foreign diplomatic embassy was informed by the army that M.S. had been killed when she tried to escape from custody, that an autopsy was conducted and the body handed over to her family. However, her relatives maintain that they

have never seen her body nor received any information about her fate. The relatives of M.S. have reported harassment and intimidation since her arrest. In view of the alleged detention of M.S. at an undisclosed location, concern was expressed that she might be at risk of torture or other forms of ill-treatment.

Urgent appeal

286. On 14 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and the Special Representative of the Secretary-General on the situation of human rights defenders regarding **B.B.K.** She was the subject of an urgent appeal dated 7 July 2004 for which no response has been received. According to the information received, she was held in Kathmandu Prison, having been in custody for almost six months without charge, and subjected to torture. In view of the earlier allegations of torture, concern was expressed that she might continue to be at risk of torture or other forms of ill-treatment. Moreover, concern was heightened by reports confirming that M.S., who was the subject of the urgent appeals dated 3 March and 7 July 2004 whose arrest and beating were witnessed by B.B.K., had died in custody.

Observations

287. The Special Rapporteur would like to reiterate her interest in receiving a response from the Government in regard to the allegations submitted.

288. The Special Rapporteur would like to draw attention to a press release issued on 14 July 2004 jointly with the Special Rapporteur on torture, the Special Rapporteur on extrajudicial, summary and arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on freedom of opinion and expression, the Special Representative of the Secretary-General on human rights defenders, the Chair of the Working Group on Enforced or Involuntary Disappearances and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. Grave concern was expressed over the human rights situation in Nepal which had given rise to the transmission of 146 urgent appeals and other communications to the Government of Nepal regarding reported violations of human rights, many of them in relation to persons arrested on suspicion of supporting or being involved with activities of Maoist groups, and taken to undisclosed locations, which puts the detainees at risk of being tortured or of suffering other forms of cruel, inhuman or degrading treatment, including rape. The experts also expressed serious concern over the significant increase in reports of abuses and attacks against civilians by insurgents.

Nigeria

Urgent appeal

289. On 26 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief, and the Special Rapporteur on torture regarding regarding **H.I.**, aged 18, from Lere Local Government Area of Bauchi State, and **D.A.**, aged 26, from Ningi Local Government. According to the allegations received, they were both sentenced to death by stoning by Shariah courts in Bauchi State following trials which were considered to be unfair by

their current legal representatives. On 5 October 2004, H.I. was sentenced by a Shariah court in Tafawa Balewa, after she reportedly confessed to having had sex out of wedlock. According to the Shariah court judge, the sentence was subject to the approval of the Governor of the Bauchi State. Ms. I. was seven months pregnant, and her sentence was supposed to be carried out after she delivers the baby. The male co-accused was acquitted for lack of evidence. It is further reported that, with the help of a local NGO, H.I. appealed the sentence. Her appeal is scheduled for a hearing on 25 October 2004. On 15 September 2004, D.A. was handed the same sentence by a Shariah court of Ningi area for extramarital relations. The male co-accused was acquitted for lack of evidence. She was detained in Ningi prison with her 3-month-old daughter and released on bail following the intervention of the local NGO. She has appealed her sentence, and her case at the Upper Shariah Court, Ningi, was adjourned till 3 November 2004.

Observations

290. The Special Rapporteur would like to reiterate her interest in receiving a response from the Government in regard to the allegations submitted.

291. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Elimination of Discrimination against Women about the persistence and social acceptability of harmful traditional practices in Nigeria, including widowhood practices, female genital mutilation, and child and forced marriage, despite prohibitions in state or federal legislation (A/59/38, para. 299). The Committee also expressed its concern at trafficking in women and the exploitation of the prostitution of women in Nigeria, which has become a country of origin and transit of trafficked women and girls. The Committee noted with concern that the transmission of sexually transmitted diseases and HIV/AIDS is further exacerbated by sexual exploitation in Nigeria (ibid., para. 301).

292. The Special Rapporteur wishes to thank the Government for its letters dated 12 July and 16 September 2004, by which the Government reported that the mission requested by the Special Rapporteur will be scheduled in 2005.

Pakistan

Allegation letter

293. By letter dated 13 February 2004 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that she had received information that B.S. killed his aunt, **Ms. Malookan**, aged 45, and **Ali Dost**, aged 25, on 5 February 2004, claiming that they had been having an illegal affair.

294. B.S., along with another man whose name is known to the Special Rapporteurs, allegedly entered Ms. Malookan's house at Gulsher Street, Kandhkot town, Jacobabad district, Sindh province, shot her and then went to shoot Mr. Dost, who lived down the street. The bodies were taken to the hospital after the incident for autopsies. The killings were reported to the A-Section Police Station Kandhkot, but the police have yet to take any serious action to arrest anyone.

Allegation letter

295. By letter dated 27 April 2004 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that she had received information concerning a 36-year-old woman named **Hazooran**, a housewife, married with four children.

296. According to information received, on 14 April 2004, Hazooran was killed by her husband, G.A., son of K., of Jeho caste, and Dilawar, the brother of the accused, in Drakhan village, Garhi Yaseen town, Shikarpur district, Sindh province. It is reported that G.A. killed his wife in the name of honour. According to the information received, the victim's brother went to lodge a complaint at the Drakhan Police Station (case No. 27/04 section 302-34 PPC) within two hours after the incident, at around 8.30 a.m. on 14 April 2004. The brother of the victim allegedly asserted that it was a killing in the name of honour. Concerns were expressed that the police, in complicity with the accused, had not made any effort to arrest the alleged perpetrators.

Government reply

297. By letter dated 16 June 2004, the Government reported that police had arrested the husband and recovered the pistol that was used to commit the offence. Efforts were being made to arrest his brother. The Government further indicated that killings in the name of Karo-Kari were registered under section 302 PPC (Murder) for award of maximum punishment by the courts.

Allegation letter

298. By letter dated 15 July 2004, sent jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Rapporteur on torture, the Special Rapporteur advised the Government that she had received information concerning **H.**, aged 8, and **S.**, aged 5. They reportedly went missing on 21 February 2004 in Karachi. Their disappearance was reported to the Gadap police station, where the officials allegedly declined to register a case. In addition, it is reported that they were reluctant to look for the girls. Their decomposed bodies were found on 25 February 2004 in the bushes near a veterinary hospital used by policemen. Bloodstains were reportedly found on the veranda and in one room of the hospital. The autopsy revealed that the two girls had been sexually abused; that H. had been killed with an axe and that S. had been shot dead from behind. H.'s legs and parts of her abdomen had been eaten by stray dogs. The Special Rapporteurs have been informed that a preliminary inquiry found the Station House Officer of Gadap police station (whose name is known to the Special Rapporteurs) guilty of negligence in delaying the registration of a case of kidnapping. Three policemen have reportedly been arrested for negligence and a fourth one has absconded. No further developments have been reported.

Government reply

299. By letter dated 15 September 2004, the Government reported that three policemen were arrested on 5 March 2004 and a case was submitted on 12 March to the court. Another suspect has absconded, but a team is making efforts to apprehend him.

Allegation letter

300. By letter dated 21 July 2004 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that she had received information concerning the following persons.

301. **Manzoor Ahmed**, son of A.M., of Lund tribe, and **Mrs. Begum**, wife of M.S., of Lund tribe, reportedly the victims of "honour killings" in Lund village near Jagan village, Shikarpur district, Sindh province, on 31 May 2004. Three unknown persons were said to have killed the two victims and concealed their bodies at unknown place to hide their crime. The whereabouts of the bodies are still unknown. The Station House Officer, Z.A.S., the Sub-Inspector of the Jagan Police Station, initially refused to register a First Information Report (FIR) when one of the relatives of the victims (the name is unknown) tried to lodge it. There is a strong suspicion that the former was responding to pressure from a local tribal chief, K.K.B., who had pressurized the police not to register the FIR and instead urged the families of the victims to settle the matter privately. However, the case was later registered by the police on behalf of the State at the Jagan Police Station on 3 June 2004 after a human rights group reported the case to the District Police Officer in Shikarpur, K.K.M. On his intervention, the case was lodged at Jagan Police Station in Humaayoon, Taluka, Shikarpur, on 3 June 2004. However, there has been no proper investigation by the police into this case. The police said that the people of the village are concealing the facts, and nobody is willing to reveal the story behind the incident due to community pressure. Even the parents of the victims are reluctant to speak because they fear that if anyone divulges the truth, the bodies of the victims will be recovered and the case challenged in the court and a tribal *jirga* (a local council) might be prohibited.

302. **Khairan**, aged 23, who was reportedly killed in the name of honour in Pakistan on 9 June 2004 by her husband, G.H., at their home in Shahul Sadhayo village, near Humayoon town, Shikarpur district, Sindh province. Her brother, S.M., and his two relatives, M.N. and S.M., went to Shahul Sadhayo village to visit her that day but were asked to wait outside the house. At around 4.30 p.m., they ran in when they heard the sound of gunshots coming from inside the house. They saw G.H. brandishing a rifle, firing directly at Khairan. One of her relative urged her husband to stop, but he turned and pointed the rifle at them, warning them not to get involved. G.H. declared that Khairan had had sexual relations with one of his relatives, named I.B., and that he would no longer allow her to live. He then fled the scene. Khairan had already died. The relatives then filed a FIR No. 28/2004 section 302 at the Jagan Police Station at Humayoon. The police arrested certain family members of the accused, but G.H. was said to remain at large.

Government reply

303. By letter dated 13 September 2004, the Government reported that S.M.S. had lodged a complaint and a criminal case under section 302 of the Pakistan Penal Code was registered at Humayoon Police Station regarding the murder of Khairan by G.H. Mr. H. had been arrested and the rifle was recovered. The case is presently on trial.

Observation

The Special Rapporteur thanks the Government for its reply. However, she would appreciate receiving further details on the outcome of the trial. She is also awaiting information relating to the cases of Manzoor Ahmed and Mrs. Begum.

Allegation letter

304. By letter dated 4 August 2004, sent jointly with the Special Rapporteur on torture, the Special Rapporteur notified the Government that she had received allegations concerning the following persons.

305. **S.**, 80 years old, of Tehsil, Liaquatpur. On 11 May 2004, the Head Constable of Khanpur City Police destroyed the wall of her house in an attempt to make his tractor pass through the narrow street. After the wall was demolished, the policeman, accompanied by four other men (whose names are known to the Special Rapporteurs), attacked Ms. S. and the occupants of her house. S., her daughter-in-law and her sister-in-law were beaten, their clothes were torn, their hair cut, and they were dragged out onto the street. The policeman threatened Ms. S. and left. No action was taken on the complaints filed at the Tarinda Police Station about this incident. Moreover, the policeman filed a case against the women for initiating the altercation. Ms. S. filed a complaint with the Additional District and Sessions Judge.

306. **Z.S.**, a primary school teacher. On 28 May 2004, policemen of the Satellite Town Police Station in Gujranwala raided her house in search of a person, stripped her naked, and stole cash and valuables. She filed a complaint with the District and Sessions Judge against the Station House Officer, the Assistant Sub-Inspector and a policeman.

307. **M.S.** On 5 March 2004, she was allegedly assaulted by police officials of Saddar Police Station, Rawalpindi, including a Station House Officer (whose name is known to the Special Rapporteurs), when she refused their demand for money. The policemen stripped her naked and dragged her into the street. The policemen left when neighbours intervened. The Saddar police subsequently refused to register a case in relation to this incident.

Allegation letter

308. By letter dated 21 October 2004, sent jointly with the Special Rapporteur on torture, the Special Rapporteur notified the Government that she had received the following allegations.

309. **M.** from Manga Mandi. On 11 March 2004, she was alone at home when a neighbour called her outside. She was grabbed by someone, who stifled her screams with a cloth and took her to a house where four men (whose names are known to the Special Rapporteurs) raped her. The police allegedly filed a case 15 days after the incident and arrested only one of the accused. They then sided with the accused men and pressured the family to settle the case.

310. **M.S.** from Sargodha. On 13 March 2004 she was tortured by her brother-in-law, his mother, and one of his friends (whose names are known to the Special Rapporteurs). Her in-laws accused her of having had illicit relations. They reportedly forced M.S. to put her legs in boiling oil before amputating them. At the time information was received, it was reported that the social

welfare department would pay for her treatment, and that some non-governmental organizations had demanded that the Government bring this case before an anti-terrorism court. Despite the fact that the incident was reported to the police, no action was reportedly taken against the perpetrators.

311. **A teenaged girl** from Chappar Khan Jamali village of Johi taluka. She was sexually assaulted by 10 people in the house of an influential person in Bhan Saeedabad town where she was reportedly kept for three months. On the first night of her marriage, three armed men (whose names are known to the Special Rapporteurs) kidnapped her from her husband's house and held her in a building in Bhan Saeedabad where three other women were kept in chains. There, these men and seven other people sexually assaulted and tortured her every night. On 14 April 2004, as three persons attempted to move her to another place near Bhan Saeedabad town, she was rescued by passersby, and was taken to the area councilor for shelter and help. Death threats have since been made against her and her family, including her brother and his wife. At the time the information was received, no action had been taken either to prosecute the perpetrators or to protect the family.

312. **S.B.** from the village of Sheikhpura. On 8 May 2004, she was in the wheat fields with her father, when four men (whose names are known to the Special Rapporteur) took them away to the police station. An influential man of Chak No. 4, G.B., then dragged her into a room and raped her while two constables remained on guard outside. The police have reportedly refuted the allegations, denied the charges and instead charged the victim with theft.

313. **Four female singers**. On 16 May 2004, they were gang-raped by police officers in Multan. The women were returning home after performing at a wedding when policemen stopped them near Jamia Babul Aloom on the Masoom Shah Road at about 2.30 a.m. They reportedly beat up the women and the driver without any provocation. The driver fled and the policemen raped two of them before dragging them almost unconscious into their vehicle and leaving them along a deserted road of Shah Rukn-e-Alam Colony. The victims later contacted a lawyer, and a medical examination was ordered by a judicial magistrate. The medical report confirmed that both of them had been gang-raped within 12 hours of the examination, and that they had multiple marks of torture on their bodies. The victims confirmed that all the perpetrators were in uniform. It is further reported that the victims and their families were harassed by the police to accept a compromise and to drop the case. A few weeks later, the police reportedly claimed to have found the alleged culprits and that no policeman was involved.

Allegation letter

314. By letter dated 8 December 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that she had received the following allegations.

315. **Shahida Bibi**, from Okara. On 26 July 2004, she was killed by a blow from an axe by her husband Khan, who suspected her of adultery. The incident was not reported to the authorities.

316. **Hashmat Bibi**, aged 55. On 26 July 2004, she was hacked to death with an axe by her son Elahi Bukhsh (aged 24), in Dherki. He suspected her of illicit relations with a man of their

village. Elahi Bukhsh fled with the murder weapon. The Dherki police are said not to have yet registered an FIR.

317. **Shazia** and **Razia**, two sisters from Sahiwal, in Chack 107/7-R. They were shot dead on 20 July 2004 by their cousin M., and his accomplices B. and B., over a marriage dispute. According to information received, S. had refused to marry her cousin. The incident was not reported to the authorities.

318. **Robina Shahid**, aged 32. On 2 July 2004, she was shot dead by her brother, A.A. of Raiwind The Lahore police stated that the accused had been suspicious about his sister's character for several months. The body was removed to the city mortuary for autopsy. A case has been reportedly registered, but no arrest was reported.

319. **S.** aged 16. She was allegedly killed with an axe by her brother, Y., at Chak 3/WB in Vehari on 15 July 2004. She was pregnant, as a result of her relationship with one S. from her village. According to the information received, the police arrested the assailant, but no further action was reported against him.

320. **A.**, aged 16. On 8 July 2004, she was shot dead by her father, M.A., in Ferozewala. He suspected her of having illicit relations with someone. He allegedly fled after the incident. No report has been made to the authorities.

321. **Imtiaz Mai**, from Warind tribe. On 6 July 2004, she was killed by members of the Warind tribe in Rahim Yar Khan. They supposedly buried her body without any post-mortem examination and alleged that she had committed suicide. According to information received, members of the Warind tribe did not accept the marriage of Imtiaz Mai and M.H. They registered a case against the couple with the Rahim Yar Khan police. Despite the fact that the couple were in possession of a legal marriage certificate, the police arrested them and asked Imtiaz Mai to make a statement against her husband. When she refused, they handed her over to her relatives, who killed her. The incident was allegedly reported to the Rahim Yar police, but no action was taken against the assailants. It is further reported that M.H. was sent to jail on a charge of adultery.

322. **Noorzadi**, aged 18 and **Qadir**, aged 27. On 3 July 2004, at around 4 a.m., the couple were killed with an axe by Noorzadi's cousin, N.M. in A.M.G., Karachi. He later went to the Ibrahim Hyderi Police Station and confessed his crime. The victims' bodies were transferred to the police station where they were unattended for at least eight hours. At around 4.30 p.m., the bodies were moved to the Jinnah Post-Graduate Medical Centre. The autopsy could not be carried out on Noorzadi's body as the woman medico-legal officer was not present at the hospital. It is reported that no further action was taken by the police later on.

323. **Nadeema Bibi**, from Lahore. According to information received, her husband Ishaq killed her on 3 July 2004. He justified her killing by explaining that she had lost character. Police registered a case on the complaint of the deceased's father. However, no action was reportedly taken by the Lahore police to bring Nadeema Bibi's husband to justice.

324. **Sharifan, alias Gudo**. According to information received, Sharifan, alias Gudo, her husband, **Sagheer Shahid**, and her sister, **Hanifan Bibi**, were killed by Ms. Bibi's brother-in-

law on 3 July 2004. Sagheer Shahid was an employee at the Police Department. He had divorced his first wife and had married Gudo. It is alleged that Sagheer Shahid later began illicit relations with Gudo's sister, Hanifan Bibi, who was also married. Hanifan Bibi's brother-in-law came to know of her relations with Sagheer Shahid and therefore killed all three. The police registered a case and were investigating at the time the information was received.

325. **Zobia Begum**, of Rawalpindi. On 14 May 2004, she was killed by her father, M.H. and maternal uncle, A.G. According to information received, she had married F.B. and fled to Mianwali with him. M. H. filed a case of murder against his brother-in-law and the cause of murder was stated to be an honor killing. F.B., the victim's husband, filed a case against M.H. and A.G. with the Mochh Station House Officer, who allegedly refused to register the complaint. F.B. then filed a writ with the High Court.

326. **Shazia Khaskheli**. According to information received, she was killed together with her husband **Mohammed Hassan Solangi**. Shazia Khaskheli and Mohammed Hassan Solangi married of their free will in October 2003. Since that date, the couple had contacted police to seek protection. However, they were instead handed over to relatives of the girl, who murdered them on 2 April 2004. The same month, the Supreme Court held that police had facilitated the murder of the couple, who had approached them for protection, and directed the Inspector General of Police to personally look into the matter and to submit a report within a month.

327. **Fatima Bibi**, from Vehari. According to information received, on 1 April 2004 she was strangled by her husband, Allah Baksh, who was accompanied by her brother Allah Ditta, and Mushtaq Baloch, Islam, Yameen, Karim Baksh, Ahmed and Sultan. Fatima Bibi had reportedly left her husband and gone to live in a shelter for women in Darulaman. An elder from Vehari called Fatima Bibi, her family, the panchayat and her husband to his house to settle the matter. Because she affirmed that she did not wish to live with her husband any longer, she was strangled by the men present. At the time the information was received, the police had not registered any case against the perpetrators.

328. **Ms. Wazeeran**, 50 years old, from Mahar caste and elected as a local councilor. According to information received, Ms. Wazeeran was killed on 7 March 2004 at around 5.30 in Sanjrani street, Berri Chouk, Rohrri town, by three nephews of her husband whose names are known to the Special Rapporteur. Although the victim's brother lodged a complaint with the Rohrri police station, no action had reportedly been taken by the police to bring the perpetrators to justice at the time the information was received. It is further reported that the perpetrators spread around the information that Ms. Wazeeran had committed adultery to make sure they would be set free in case of legal proceedings against them. Moreover, the police were said to offer no protection to the victim's family, who was under permanent threat from the perpetrators.

329. **K.** aged 13, from Kato Bangwar village, Kandh Kot town, Jaqcobabd district, Sindh province. According to information received, she was killed on 4 March 2004 at around 8.30 p.m. on the pretext of an honour killing by her husband and four members of his family whose names are known to the Special Rapporteur. K.'s father, T.B., as well as his two cousins, B.B. and R.B., had come to visit her. They were talking when her husband, accompanied by his father, his uncle, his brother and one of his relative, all armed with guns, came into the house, dragged her to the ground and shot her to death after having accused her of having a sexual relationship with a man. They then took her body away in a cart to conceal it. K.'s family

members could not do anything to stop the killing. Her father registered a case at the Karampur police station on 6 March 2004. Nevertheless, none of the perpetrators had reportedly been arrested at the time the information was received, despite the fact that the killers were identified by three persons.

330. **Robina**, from Farooqabad. According to information received, Robina was reportedly burnt by her husband, M.R., and in-laws on 20 March 2004. It is also reported that Robina had been cruelly treated since she got married five years previously because she had brought a smaller dowry than they had expected. The mistreatment increased when she remained childless. Robina was first stabbed in the neck. She was later doused with kerosene and set on fire. Her in-laws affirmed that she was burnt by accident, but the neighbours witnessed what actually happened. Robina's father-in-law only allowed her family to take her to hospital when they swore that they would not file a case against her in-laws if she died. A month later, Robina died as a result of her injuries. At the time the information was received, her in-laws and husband were said to remain free.

Urgent appeal

331. On 26 January 2004, the Special Rapporteur sent an urgent appeal concerning **S.A.**, who was declared Kari by the Almani tribe after she married the person of her choice, **B.S.**, of the opposing Mahar tribe, on 1 June 2003 in Pano Aqil. As a result, S.A. was reportedly at risk of being killed.

332. According to information received, S.A., her husband and residents of Pano Aqil, Sukkur district, reportedly attended the Sindh High Court, Sukkur Bench, on 4 December 2003. B.S. was said to have recorded the statement that he divorced S.A. on 24 October 2003 in Lahore at the residence of his friend K.B. in front of two witnesses. It is reported that he had divorced his wife because he foresaw a grave threat to both families should the marriage be continued. The Court has reportedly ordered the family and S.A.'s tribe to ensure her safety. Her uncle, K.B.A., apparently guaranteed S.A.'s security. She was brought to Karachi on 19 December 2003 and was reportedly under police security due to threats to her life. Despite the police security, it was reported that S.A. and her family continued to receive death threats and are followed by armed men of the Almani tribe in Karachi.

Government reply

333. By letter dated 26 April 2004, the Government informed that S.A. and B.S. had gotten married without the consent of family elders. In September 2003, some influential members of the Mahar and Almani tribes arranged a meeting to amicably resolve the issue. It was feared that S.A. might be declared Kari and ultimately killed by the tribe. The case was in the national and international media. The President of Pakistan took cognizance of the matter and directed the provincial government of Sindh to ensure the necessary measures for the safety/security of S.A. Lately, the tribes have reconciled and no clash is expected between them. S.A. and her sister are presently residing in Police Headquarter Line, South Garden, Karachi. On account of threat to the life of S.A. and her family, the provincial government has taken adequate security measures for their protection.

Urgent appeal

334. On 24 March 2004, the Special Rapporteur sent an urgent appeal concerning **Ms. Shahul**, aged 25, who was killed by her husband, M.A.S., on 21 February 2004 at 8.30 p.m. It is reported that M.A.S. had accused his wife of having illicit sexual relations, and that the killing was perpetrated in the name of "honour".

335. It is reported that the FIR given to the Dakhan Police Station by the family states that the victim and her husband had gotten married about nine years previously and lived in a joint family environment (together with other relatives). The report is said to claim that on the night in question the couple had had a "minor domestic quarrel". At 8.30 p.m. that night, relatives were reportedly awoken by a gunshot in the dairy farm where M.A.S. and Ms. Shahul were staying. They reportedly went to the farm and found Ms. Shahul bleeding copiously from her left shoulder. M.A.S. was allegedly seen fleeing with a pistol in his hand. Ms. Shahul reportedly died later that night from the gunshot wound. The information received indicates that the case may be disposed of under the Ordinance of Qisas and Dayat (whereby the offender can escape punishment by providing compensation to the victim's family). It is reported that the family would make an arrangement of this sort as they do not want the perpetrator to receive too heavy a punishment. The information suggests that the police have been bribed to treat this case as a "minor domestic quarrel", rather than a case of killing in the name of honour.

336. The Special Rapporteur expressed her concern that killings in the name of honour reportedly take place on a regular basis in Pakistan and with impunity, despite national laws which prohibit this practice. In this context, there is concern that the police may not fully investigate the case if the perpetrator pays the family a sum of money. According to information received, in September 2003, at least 631 women and 6 girls had been killed by their relatives in the name of honour since January 2003. It is suspected that the number of victims of this form of violence against women is much higher, as these numbers only represent the cases that had been reported in the newspapers. It is reported that husbands, fathers, boyfriends or brothers have gone unpunished after murdering wives, daughters, girlfriends or sisters in order to defend the honour of the family or their own honour.

Government reply

337. By letter dated 13 September 2004, the Government indicated that the accused had been arrested and that after completion of the investigation on 18 April 2004, the case was sent to the courts and is currently under trial.

Urgent appeal

338. On 7 April 2004, the Special Rapporteur sent an urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on the situation of human rights defenders concerning **U.N.**, Secretary-General of the Panah Shelter Home for Women and a member of the Human Rights Commission of Pakistan.

339. According to the information received, in 2002 U.N. provided shelter in the Panah Shelter Home to a woman who had allegedly been tortured by her husband, a major in the army.

It is reported that during that time, the husband, whose name is known to the Special Representative, harassed and threatened to kill the staff of Panah for having granted asylum to his wife. The woman reportedly returned to her husband two months later. However, her husband has reportedly subjected U.N. and her family to constant harassment and intimidation with threatening and abusive telephone calls. She reportedly filed a complaint on 26 April 2003 with the Corp Commander of the army and the Citizen Police Liaison Committee (CPLC). The Corp Commander reportedly informed her that she would no longer be harassed. She allegedly did not receive a reply from the CPLC. The harassment reportedly stopped following her complaint but has reportedly begun again. A further complaint was filed on 25 February 2004 with the police, including the Senior Superintendent of Police in Islamabad, S.N.B. However, no action has reportedly been taken by the authorities to protect U.N. and her family.

Government reply

340. By letter dated 15 October 2004, the Government reported that the necessary action had been taken against the accused. He was arrested and sent to court. The case may therefore be considered as settled.

Urgent appeal

341. On 14 May 2004, the Special Rapporteur sent an urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning **T.**, aged 17, and **Aabida**, aged 18, two cousins from Sindh province who were reportedly shot dead after they were accused of having "loose morals" for having visited their grandparents without first getting family permission.

342. According to the information received, the decision to kill the girls was taken in a tribal *jirga*, led by A.R., the tribal chief and a powerful landlord in the village. On 1 May 2004, the two victims had gone to visit their grandparents without informing any family members. On 2 May 2004, two groups went to search for them. It is reported that A.R., who was part of the group who found the girls, brought them to his residence at Lakhi gate in Shikarpur. As chief of the tribe, he reportedly called on several persons to join him there for a *jirga*. He also reportedly called T.'s brothers, F. and H., as well as Aabida's father, D.M., telling them that the girls were under his protection and that they would be given back to their families the following day. The three relatives reportedly went to appear before the tribal chief on 3 May 2004. A.R. reportedly told them that he would take the girls back to the village. Upon their arrival, A.R. and those accompanying him allegedly told the relatives to kill the girls because they had "loose morals". Although F., H. and D. M. reportedly begged them not to kill the girls, the men shot them and took the bodies in order to cover up the crime. They then reportedly threatened the witnesses with death if they complained to the police. According to the information received, the witnesses reported the killings at the police station in New Fajdari. Since then, the family has reportedly received constant threats to withdraw the case and has been socially ostracized by the rest of the community. It is further alleged that the perpetrators have refused to give the bodies to the family, claiming that they were already too decayed. The police are said to have done nothing to investigate this case and to bring the perpetrators to justice, and have taken no action to protect the family members who lodged the complaint.

Government reply

343. By letter dated 16 June 2004, the Government reported that T.'s brother and cousin of Aabida reported FIR case No. 65/2004 at the police station of New Foudjari against eight men. On 14 May 2004, the dead bodies of both girls were recovered from a fish pond belonging to one of the accused. On 11 May, three accused were arrested by the police. Further raids were carried out to arrest the remaining accused. Special teams have been constituted for that purpose.

Urgent appeal

344. On 9 June 2004, the Special Rapporteur sent an urgent appeal with the Special Representative of the Secretary-General on the situation of human rights defenders concerning S.K., sister of I.K., who had received a death threat from unknown men who are believed to be connected to the perpetrators of I.K.'s murder. It is reported that I.K. was the information coordinator of Peace Worldwide, a Christian organization based in Islamabad. He was reportedly murdered by three men on the night of 7 February 2004. According to the information received, on 25 May 2004, two unknown men followed S.K. in Islamabad and called her workplace, saying that she would be killed because her family had not withdrawn the complaint against the perpetrators of her brother's murder, including H.A. ur R. She is now said to be in hiding, and her other brother, also I.K., also had to leave his home due to continuous threats. Since I.K.'s death, the victim's family has reportedly been threatened, allegedly by the primary suspect responsible for the killing. In addition, staff members of Peace Worldwide have also allegedly received threats from the perpetrators. Although the police have arrested one suspect, the other suspects are still at large and the police have reportedly not taken any serious action to protect witnesses and the victim's family. In this context, the Special Rapporteurs requested the Government to provide protection to the victim's family and witnesses and ensure that justice is rendered.

Government reply

345. By letter dated 14 July 2004, the Government reported that its Permanent Mission had contacted police authorities in Islamabad to ensure the protection of S.K. The Senior Superintendent of Police of Islamabad reported that the police were willing to provide her with protection, but her whereabouts were not known to them. The police authorities advised that if she needed police protection, she should let the police authorities know about her present home or workplace address.

Observation

346. The Special Rapporteur would like to thank the Government for its responses. However, she would appreciate receiving more detailed information, in particular on the outcome of the investigation conducted. The Special Rapporteur would like also to express concern over the numerous cases of so-called honour killings which continue to be received and would like to remind the Government of its obligation to thoroughly investigate all cases even in the absence of a formal complaint.

Russian Federation

Allegation letter

347. On 16 November 2004, the Special Rapporteur sent an allegation letter to which the Government responded by letter dated 30 November 2004.

348. On 4 January 2004, **P.K.G.**, her three daughters, **L.S.M.**, **E.S.M.** and **S.K.K.**, and her son, **M.S.M.**, were arrested by Russian servicemen in Grozny and taken away in a military van. P.G.'s other son, **A.S.M.**, had also been arrested on 25 December 2003. No members of the family have been seen since their arrest.

349. Concerning A.S.M., the Government reported that on 25 December 2003, at around 1 p.m., at the "Stary poselok" bus stop in the city of Grozny, two unidentified persons in camouflage uniforms, armed with automatic rifles and travelling in a grey VAZ-21099 vehicle without State registration plates, abducted him and took him to an unknown destination. On 9 January 2004, the Staropromyslovsky district procurator's office in Grozny opened a criminal case. During the preliminary investigation, an inspection of the place where A.S.M. had been abducted (in the vicinity of Ilich Street) and other investigative actions and routine inquiries were carried out; however, it was not possible to establish the whereabouts of the victim or his abductors. As a result, on 9 March 2004, the preliminary investigation into the case was suspended, but on 26 July 2004 the case was reopened to permit further investigative actions and routine inquiries. The Procurator's Office of the Chechen Republic is monitoring the progress of the investigation.

350. Concerning the abduction of **P.K.G.** and her children, the Government indicated that the Staropromyslovsky district procurator's office in Grozny had opened a criminal case. In the course of the investigation it was established that, during the night of 3-4 January 2004, unidentified persons (approximately 10 persons in camouflage uniforms, wearing masks and carrying automatic rifles) broke into flat No. 11 at house No. 123 in the town of Mayakovsky, from where they abducted the five people and took them to an unknown destination. Witnesses were questioned about the circumstances of the abduction; the place where the offence was committed was visited, and other investigative actions and routine inquiries were carried out. However, it was not possible to establish the whereabouts of the abductees or the persons responsible for their abduction. As a result, on 21 May 2004, the preliminary investigation into the case was suspended. On 26 July 2004, the case was reopened in order to permit further investigative actions and routine inquiries. The progress of the investigation is being monitored by the Procurator's Office of the Chechen Republic.

351. On 9 January 2004, **M.S.A.**, and two men, **A.S.A.S.** and **A.B.B.**, were taken from Starye Atagi village by men who spoke Russian without a Chechen accent. The villagers reportedly organized a protest the next day, particularly concerned that a young woman had been taken from the village.

352. The Government reported that on 9 January 2004, the three persons were detained and taken away from their home by unidentified persons in camouflage uniforms. According to the Government, they were questioned by their abductors before being released on the same day or on the following day. For each case, the Government indicated that an inquiry had been opened

by the Grozny district procurator's office. Since they reportedly did not suffer any physical or psychological harm, and did not make allegations against anyone, the Grozny district procurator's office decided not to initiate criminal proceedings in connection with their detention. On 29 July 2004, following investigation of these incidents, the Procurator's Office of the Chechen Republic overturned this decision and the information concerning the cases was referred to the Grozny district procurator's office with a view to additional inquiries.

353. At around 2.00 a.m. on 15 January 2004, **E.A.G.** was taken from in front of her house in the village of Gechi, region of Urus Martan. Several masked men forced her into a car without licence plates. She had been arrested in December 2003 and then released. Her four young children were left alone as her husband was also taken in 2001. On 11 November 2004, her whereabouts were still unknown.

354. The Government confirmed E.A.G.'s abduction on 15 January 2004. It further indicated that on 20 May 2004, information was received that Ms. G. was in Grozny. On further investigation, it was established that for a short while she had stayed in a temporary shelter for refugees and at No. 19 Tverskaya Street in Grozny; however, on 16 June 2004 she was expelled from the shelter and her current whereabouts are unknown. Investigations are under way to establish Ms. G.'s whereabouts.

355. On 19 January 2004, **L.M.** was taken from her house in the village of Assinovskaya. It is reported that 20 Russian soldiers, the majority of them wearing masks, forced open the door of the house and took all the men outside. They reportedly demanded that L.M. and her young sister went with them, promising that they would be released afterwards. The mother and father convinced the men to leave the younger girl behind. The mother also tried to go with L.M. but the soldiers prevented her from entering the car. The cars, which had no licence plates, drove away. L.M. has not been seen since.

356. The Government confirmed her abduction and indicated that the criminal investigation was still under way, and investigative actions and routine inquiries were being carried out to establish her whereabouts. The progress of the preliminary investigation was being monitored by the Procurator's Office of the Chechen Republic.

357. On 19 January 2004, **M.B.O.** was taken from her home in the village of Katyr-Jurt by Russian soldiers. The soldiers allegedly beat up all the male members of the family and then forced M.O. into their car. It is reported that, on 5 January, while M.O. was at the local administration offices, soldiers had told her that they had information that she wanted to be a "Shachid" (female suicide bomber). M.O. reportedly told them that as she had two little children to take care, she had no such plans. O.M. has not been seen since.

358. The Government reported that a criminal case was opened on 29 January 2004, by the Achkhoy-Martan inter-district procurator's office. According to the Government, various investigative actions and routine inquiries were carried out; however, they proved unsuccessful. On 29 May 2004, the preliminary investigation was suspended although inquiries to shed some light on the offence were still under way.

359. On 22 January 2004, **G.A.** and her father, **A.A.**, were taken from the village of Assinovskaya. It is reported that A.A. was taken to a cellar by 30 soldiers, both Russian and

Chechen, where he was tortured. Later, G.A. was brought into the room and they threatened to torture her if her father did not answer the questions. A.A. was reportedly tortured in his daughter's presence until he lost consciousness. Then the soldiers drove away.

360. The Government indicated that the law enforcement agencies of the Achkhoy-Martan and Sunzha districts had not received any reports of the disappearance or abduction of those persons.

361. On 25 February 2004 **K.M.** was reportedly taken from the Michurin settlement of Grozny by armed men dressed in camouflage. According to an eyewitness, she disappeared after she went to buy food. The eyewitnesses report that the abductors were driving a silver VAZ-21099 car with tinted windows. **K.M.** has not been seen since.

362. The Government stated that to date, no complaints or reports concerning her abduction had been submitted to the law enforcement agencies. However, in view of the foregoing, the procurators of the Sunzha and Oktyabr districts in Grozny had been instructed to investigate the incident.

363. On 26 February 2004, **M.D.** and **M.Z.**, two Chechen refugees, were abducted in Nasran, Ingushetia by armed men wearing camouflage. They have not been seen since.

364. According to the Government, these persons are not listed as being held by the law enforcement agencies of the Republic of Ingushetia or the Chechen Republic, nor have their relatives submitted any complaints to the law enforcement agencies concerning their abduction. However, the Government indicated that the procurator's office of the Republic of Ingushetia had taken steps to identify their relatives with a view to verifying the information concerning their abduction.

365. These cases illustrate the increasing number of women who are allegedly being arbitrarily arrested, detained and disappeared in Chechnya, and the neighboring Republic of Ingushetia. The cases are reportedly linked to the implementation of Operation Fatima (Order No. 12/309) issued on 9 July 2003, which directs the authorities in Chechnya to specifically target Muslim women in efforts to find female suicide bombers.

366. The Government stated that there was no ground for suspecting that members of the federal armed forces or the law enforcement agencies had committed these offences. All cases in connection with which investigations were still under way or had been suspended were being closely monitored by the Office of the Procurator-General of the Russian Federation.

Urgent appeal

367. On 3 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture, regarding the following cases.

368. **E.G.**, a mother of four from the village of Gekhi, in the Urus-Martan region of the Chechen Republic, who was reportedly arrested on 2 December 2003 after she complied with an order to go to the Urus-Martan district police station (ROVD). On the following day, the head of the Department for Criminal Investigations at the ROVD allegedly told **E.G.**'s mother that she had been detained, but did not specify on what grounds. It is reported that **E.G.** was released

from the ROVD in mid-December 2003, but that on her way home to Gekhi, she was stopped by men in camouflage, thought to be Russian soldiers, who allegedly took her away. Her whereabouts reportedly remain unknown. Her husband allegedly disappeared in 2001.

369. **M.K.**, a widow from Kotar Yurt in the Achkhoi-Martan region of the Chechen Republic, was questioned on 5 and 9 January 2004 by a member of the Russian federal forces about allegations that she wanted to become a suicide bomber and had plans to go to a training camp for Chechen fighters. She reportedly denied all the allegations and the man left. On 19 January 2004 several men in camouflage came to her house and forced her to go with them. M.K. has two children, one of whom is only two months old and still breastfeeding. The men reportedly did not let her take this child with her. Her whereabouts are allegedly not known. Her husband is alleged to have been a fighter who died in a recent clash with Russian forces.

Government reply

370. By letter dated 28 April 2004, the Government reported that at about 2 p.m. on 15 January 2004, in the vicinity of her home in the village of Gekhi, Urus-Martan district, the Chechen Republic, E.G., was abducted and driven away to an unknown destination by unidentified armed individuals travelling in two motor vehicles. Her whereabouts have not been established to date. On 25 January 2004 the Urus-Martan district procurator's office opened a criminal case on the basis of evidence of an offence under article 126 of the Criminal Code. On 19 January 2004 the Achkhoi-Martan inter-district procurator's office opened a separate criminal case file, No. 38004, on the basis of evidence of an offence under the same article of the Criminal Code, in connection with the abduction of M.O. It has been ascertained that at about 2 a.m. on 19 January 2004, some 15-20 unidentified masked and armed individuals in camouflage gear entered the village of Katyr-Yurt, Achkhoi-Martan district, abducted M.O. and drove her away in a motor vehicle. Her whereabouts have to date also not been established. The investigation of the criminal cases in connection with the abduction of E.G. and M.O. is at present continuing under the supervision of the Office of the Procurator of the Chechen Republic. As the investigation proceeds, measures are being taken to establish the circumstances surrounding the abduction and possible whereabouts of the women and to identify their abductors. At the current stage of the investigation, the involvement of military personnel or officers of other law and order agencies in the aforesaid offences has not been established.

Observation

371. The Special Rapporteur thanks the Government for its response and would like to be informed about the results of the investigations in all cases mentioned above. Following her official visit to the country (17-24 December 2004) the Special Rapporteur recommends that the Government of the Russian Federation: prioritize women's rights in judicial and non-judicial mechanisms, policies and programmes; amend legislation in conformity with international standards, enact legislation specifically criminalizing domestic violence and provide shelters for those in need; launch gender-awareness campaigns and provide training to law enforcement officers and security forces; support, politically and financially, civil society initiatives promoting human rights including through research and advocacy; ensure that all laws, policies and practices to counter terrorism fully meet fundamental principles of international law and international human rights standards; investigate, prosecute and punish those responsible for violations of human rights and provide compensation to victims or their families; ensure the safe

and voluntary return of IDPs; establish a protection programme for human rights defenders, witnesses and victims who are at risk of harm.

Rwanda

Allegation letter

372. By letter dated 22 June 2004 sent jointly with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur advised the Government that she had received the following information.

373. Between 250,000 and 500,000 women are estimated to have been raped during the genocide and subsequent war in Rwanda. Many of these women continue to be traumatized and are living with sexually transmitted diseases, including HIV/AIDS. It is reported that very few of the suspected perpetrators of sexual violence have been brought to justice. In addition, while efforts have been made by the Government, multilateral and bilateral donors, and non-governmental organizations to expand prevention, care and treatment services, a majority of victims reportedly still do not have access to medical care.

374. Women are reported to suffer disproportionately from HIV/AIDS and related diseases. According to the information received, rape survivors who have contracted HIV/AIDS continue to experience further human rights violations. They and their families reportedly face severe social stigma which, in some cases, has led to further violence, including sexual violence; loss of employment; denial of access to medical care; difficulty in asserting property rights; and denial of bank loans and other credit.

375. Furthermore, according to information received, sexual violence and forced marriage continue to be perpetrated by members of the Rwandan Defence Forces (RDF), security forces and unpaid militias. Gender-based violence is also reportedly a persistent feature of the human rights violations committed by Rwandan security forces in the Democratic Republic of the Congo and in the post-war insurgencies in Rwanda. According to information received, these assaults are sometimes reported but allegedly seldom prosecuted. The low status of women and girls in society and their limited access to justice reportedly make it difficult to seek redress and increase women's and girls' vulnerability to sexual violence.

Observation

376. The Special Rapporteur would like to reiterate her interest in receiving a response from the Government in regard to the allegations submitted.

Saudi Arabia

Allegation letter

377. By letter dated 12 October 2004, sent jointly with the Special Rapporteur on torture, the Special Rapporteur notified the Government that he had received information concerning **M.M.**, a domestic worker in Dar es Salaam, United Republic of Tanzania.

378. According to the allegations received, on 4 July 2004, at about 4.30 p.m. M.M. was raped by her employer, a Saudi diplomat (whose name is known to the Special Rapporteurs) at his home in Dar es Salaam. M.M. suffered several injuries and was taken to a local hospital for treatment where a doctor confirmed that she had been raped. On 9 July 2004, the police reportedly arrested the diplomat at Dar es Salaam International Airport whilst he was trying to leave the country. Attempts were made by M.M.'s lawyer, the Ambassador of Saudia Arabia to Tanzania, and officials in the Ministry for Foreign Affairs and International Cooperation to try to settle the matter. However, the Government of Saudia Arabia declined to waive the perpetrator's diplomatic immunity so he could be prosecuted in Tanzania and he returned to Saudia Arabia. The perpetrator was said to be in custody in Saudia Arabia and it was reported that he would be prosecuted for this crime. Nevertheless, concerns were expressed that the perpetrator may escape prosecution and that the victim may not receive compensation.

Observation

379. The Special Rapporteur would like to reiterate her interest in receiving a response from the Government in regard to the allegations submitted

Spain

Carta de alegaciones

380. Por carta de fecha 14 de septiembre de 2004, la Relatora Especial, juntamente con el Relator Especial sobre la tortura, notificó al Gobierno que recibido información sobre las alegaciones siguientes:

381. **A. M. A.** de 23 años, habría sido detenida por agentes de la Policía Nacional en Vitoria, el 19 de febrero de 2003. Habría permanecido cuatro días detenida en régimen de incomunicación y habría sido posteriormente presentada ante el Juzgado Central de Instrucción número 5, en Madrid. Seguidamente, habría sido trasladada a prisión. Durante su estancia en dependencias policiales, habría tenido que quitarse la ropa y los zapatos y quedarse solamente con los pantalones y el sujetador. Habría sido zarandeada contra una pared y le habrían dado dos sopapos. Seguidamente, habría sido puesta contra una pared con los brazos en cruz y cada vez que se movía la golpeaban en la cabeza o la espalda. Más tarde la habrían llevado a un calabozo. En otra ocasión la habrían amenazado con abusar sexualmente de ella con una pistola o un palo si no firmaba la declaración policial. A lo largo de su detención, los agentes habrían proferido distintas amenazas contra familiares y amigos suyos. Se habría presentado una denuncia por el trato supuestamente recibido durante la detención. La juez instructora habría solicitado a la Dirección de Policía Nacional que se identificara a los policías que practicaron diligencias con A. M. A. Sin embargo, se alega que después se archivó la causa sin que se practicara ninguna otra de las pruebas solicitadas.

382. **N. M. S.** de 22 años, habría sido detenida por agentes de la Ertzaintza en Bilbao, el 17 de junio de 2003. Habría permanecido cuatro días en régimen de incomunicación y posteriormente habría sido presentada ante el Juzgado Central de Instrucción número 1, en Madrid. Seguidamente, habría sido trasladada a prisión. Durante los interrogatorios habría tenido que permanecer con las manos levantadas y contra una pared, las piernas abiertas y las rodillas flexionadas. Otras veces habría tenido que permanecer con el cuerpo pegado a una pared, los

brazos levantados y las manos abiertas. Durante estas posturas forzadas, un agente insistía en querer quedarse a solas con la detenida y habría proferido varias amenazas de carácter sexual. La situación le habría provocado dolores de estómago, vómitos, temblores y otros malestares, y habría sido conducida a un hospital. Durante su detención, también habría oído como se llevaban a su hermano mellizo, U. M. S., a rastras a un calabozo. Le habrían preguntado por alergias que su hermano podía tener, y en una ocasión, la habrían llevado a verle, cuando se encontraba tumbado en un calabozo. Se alega que para aumentar la presión, los agentes habrían declarado culpable a cada uno de los gemelos de la detención del otro. Se habría presentado una denuncia por el trato recibido por los dos hermanos durante su detención en dependencias policiales.

383. **R. S. O** (m) de 28 años, y su compañera **A. L. B.** habrían sido detenidos por agentes de la Ertzaintza el 5 de septiembre de 2003 en Portugalete. Tras permanecer cuatro días detenidos en régimen de incomunicación, habrían sido presentados ante el Juzgado Central de Instrucción número 4, en Madrid. Seguidamente habrían sido trasladados a prisión. Durante su detención en dependencias policiales, **A. L. B.** habría sido obligada a permanecer en el centro de una celda de espaldas a la puerta con las piernas flexionadas y las manos detrás, a pesar de que les habría informado de que tenía una hernia discal y no podía mantener este tipo de postura. Entonces un agente le habría dado patadas en las piernas y le habría apretado fuertemente la cabeza con las manos. Más tarde, cinco hombres con buzo negro habrían entrado en la celda y la habrían aplastado contra una pared. Uno de ellos le habría tocado el pecho. Habría sido igualmente obligada a escuchar música a alto volumen al mismo tiempo que se escuchaban golpes y gritos de dolor. Le habrían dicho que los gritos eran de su novio. Habría sido amenazada con ser violada. También la habrían amenazado con detener a su madre. Durante su detención, no habría podido dormir. En una ocasión, habría notado un fuerte dolor en el pecho y habría sido conducida a un hospital. Ante el juez habría denunciado malos tratos físicos y psíquicos, y vejaciones sexuales. Por su parte, **R. S. O.** habría sido obligado a permanecer en la postura conocida como la de "Spiderman". Ésta consiste en permanecer frente a una pared con las rodillas flexionadas, las piernas abiertas y las manos hacia arriba sin llegar a tocar la pared. Los agentes le habrían dicho que se trataba de una nueva forma de tortura, que tenía los mismos efectos que una paliza pero que no dejaba marcas. En esta postura y mientras sonaba una música muy fuerte, habría sido interrogado varias veces. Durante un interrogatorio habría sido amenazado con ser violado mientras unos agentes lo sujetaban y otro habría simulado el acto con la pata de una silla. En otra ocasión, mientras estaba manteniendo la postura de "Spiderman" contra una pared, le habrían tirado agua por encima y le habrían colocado un cable en la muñeca, haciendo pequeños espasmos y apagando las luces repetidas veces. Más tarde, cuando habría pedido ir al baño, le habrían dado un golpe en la vejiga que habría provocado que orinara. Los agentes habrían hecho repetidas menciones a su novia, diciéndole que podían abusar de ella. **R. S. O.** también habría denunciado el trato recibido durante su detención.

Respuesta del Gobierno

384. Por carta con fecha de 27 de diciembre de 2004, el Gobierno respondió en relación con el caso de **A. M. A.** El Gobierno indicó que fue detenida en su domicilio por un presunto delito de colaboración con organización terrorista. En el momento de su detención, es informada de sus derechos constitucionales y del hecho de su incomunicación. Sobre las 4 horas y 45 minutos en dependencias policiales, es reconocida por el médico forense de Vitoria. Finalizado el reconocimiento médico, es trasladada por carretera y debidamente custodiada a las Dependencias Policiales de la Comisaría General de Información en Madrid. Durante su estancia en las

dependencias policiales, le detenida es reconocida por el Médico Forense de la Audiencia Nacional en tres ocasiones. La detenida fue informada de sus derechos constitucionales reconocida por el médico forense que extendió los oportunos partes facultativos adjuntados a las Diligencias instruidas, habiéndole sido recibida declaración en presencia de Letrado de Tuomo de Oficio debido a su situación de incomunicación acordada por la Autoridad Judicial competente cumpliendo estrictamente de esta forma la Legislación vigente. No existe constancia de que la detenida haya presentado denuncia ni ante la policia ni ante la autoridad judicial competente por presuntos malos tratos.

Observaciones

385. La Relatora Especial agradece el Gobierno por sus respuestas. Sin embargo, quiere recordar al Gobierno su obligación de investigar las alegaciones de violencia contra la mujer incluso en la ausencia de una denuncia.

386. La Relatora Especial quisiera llamar la atención sobre algunos de los motivos de preocupación expresados por el Comité para la Eliminación de la Discriminación contra la Mujer(A/59/38 – para 334) por el hecho de que si bien celebra los esfuerzos realizados por el Estado Parte para combatir el problema de la violencia contra la mujer, inclusive mediante la adopción del II Plan Integral contra la Violencia Doméstica (2001-2004), al Comité le preocupa la prevalencia de la violencia contra la mujer, en particular el número alarmante de denuncias de homicidios de mujeres a manos de sus cónyuges o parejas actuales y anteriores. El Comité también expresó su preocupación por el aumento de la incidencia de la trata de mujeres y niñas. Le preocupa la situación de las mujeres que son objeto de ese comercio, en particular las que invocan la condición de refugiadas por motivos de persecución basada en el género (para 336).

Slovakia

Allegation letter

387. By letter dated 29 April 2004 sent jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health, the Special Rapporteur advised the Government that she had received information that Romani women have been subject to forced and coerced sterilization in Slovakia.

388. It is alleged in the report entitled "Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia" by the Center for Reproductive Rights and Poradda, published in January 2003, that Romani women's rights to informed consent to sterilization, accurate and comprehensive health information, and non-discriminatory health services have been violated. In light of this information, the Special Rapporteurs welcomed the criminal investigation initiated by the Office of the Deputy Prime Minister into the allegations. However, the Special Rapporteurs have recently received information which suggests that the investigation was not conducted in a manner that respects the rule of law, including the rights of victims to be treated with dignity.

389. According to information received, on 12 February 2003, **21 women** from Romani settlements in Richnava and Bistrany were questioned at the Krompachy police station in connection with sterilization procedures to which they had been subjected. The names of 19 women had apparently been given to the police by the staff of the Krompachy Hospital. All of the women were allegedly taken for questioning by police officers who went to their homes unannounced. It is believed that most of the women did not understand in what capacity they were being questioned, nor were they aware of their right to refuse to comply with an orally presented summons. It is believed that some women thought that they were being treated as criminal suspects. The questioning of Romani women was allegedly conducted by male police officers who demonstrated no sensitivity to the intimate nature of the procedure, the circumstances in which it took place or its effects.

390. According to information received, **at least two women** who were forcibly sterilized stated that they were threatened by the officers who questioned them. The women were reportedly told that they should sign a criminal complaint for the offence of genocide, although they had no knowledge of, nor had they been instructed about, the significance of the formulation of this charge. At the same time, they were allegedly told that they would face imprisonment of up to three years for false accusation if their complaint should prove to be false.

391. On 13 and 14 August 2003, in the course of interrogations held at the police stations in Spisské Vlachy and Krompachy, it is reported that investigators threatened **at least 11 Romani women** that they would be prosecuted for submitting a false complaint if the investigation failed to prove their allegations of forced sterilization. It is reported that women who had been pregnant before they were 15 years old were told that their husbands or partners would be prosecuted for statutory rape. On 13 August 2003, **Romani women in Bystrany** were allegedly interrogated in Spisské Vlachy without having received prior written notice or summons.

392. According to information received, a report issued by the Commissioner for Human Rights of the Council of Europe, who reportedly sent a delegation to the Slovak Republic in September 2003 to look into the issue of sterilization, concluded that given the questionable manner in which the investigation was carried out it could reasonably be assumed that Romani women in Slovakia were sterilized without their informed consent.

393. However, in October 2003, the criminal investigator of the Slovak Republic reportedly halted the investigation and concluded that no criminal wrongdoing had taken place. Shortly after this decision was made, a group of Romani women allegedly filed an appeal to the Regional Prosecutor's Office in Košice, challenging this decision. It is reported that they objected to the inadequacies of the criminal investigation, which ignored the crucial issue of informed consent, the bias of experts, evidence offered by victims, and the issue of minors being sterilized without valid consent of their parents. However, it is believed that the Regional Prosecution rejected the complaint, resulting in the official closure of the criminal investigation.

Government reply

394. By letter dated 29 July 2004, the Government reported that following the receipt of information published by an NGO and criminal complaints concerning the practice of forced sterilization in eastern Slovakia between 1999 and 2003, all relevant constitutional institutions took action on the matter. The Regional Police Office Corps launched prosecutions against

unknown perpetrators for the criminal offence of genocide. Moreover, an expert team under the Ministry of Health was created, whilst the Minister of the Interior established a specialized police investigation team of four persons, of whom three were women. Investigations were carried out under the supervision of the Prosecutor General's Office and the Parliamentary Committee for Human Rights, Minorities and the Status of Women. These investigations and inspections of the various hospitals and gynaecological institutions revealed that genocide, segregation or discriminatory practices in health care establishments had not taken place. The Government indicated that civil society members were also involved in the process. International institutions and organizations were also allowed by the Government to assess the whole issue directly. Investigators were not allowed to access women's files in hospitals, as a result of which public appeals were made to women who believed that they had been sterilized against their will or without their consent to contact any police corps department and they would then be directed how to contact the investigative team. On 24 October 2003, Regional Judicial Police Officer decided to close the investigations since no proof concerning the practice of forced sterilization had been uncovered. The investigation had, however, revealed certain procedural shortcomings in the laws as well as in health establishments in connection with the obtaining of informed consent from patients undergoing sterilization. Consequently, the Government initiated a review of the relevant Slovak medical legislation with a view to bringing it into compliance with the European Convention on Human Rights and Biomedicine. A copy of this law was attached in the Government's response to the Special Rapporteur. The health institutions found to have administrative deficiencies adopted measures such as having new forms for sterilization applications and for the consent of patients being sterilized. The Government is also prepared to organize further training of health care, police, social sector as well as public administration staff in order to deepen their sensitivity to the human element required for services provided by them.

Observation

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

Sri Lanka

Allegation letter

396. By letter dated 1 October 2004 sent jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteur reported that she had received information concerning **D.M.R.**, aged 10, who was raped for over one year by six persons, including members of her family, whose names are known to the Special Rapporteurs.

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

398. The facts were discovered by the girl's teachers, who noticed that she had lost her enthusiasm for studies, looked very depressed and walked in an abnormal way. When they questioned her, D.M.R. told the teachers that she had been constantly raped by six persons, including her stepfather, for about one year. The teachers immediately reported the incident to

the Hingurakgoda Police Station and helped her to take legal action against these six perpetrators (case No. B 7420/2004).

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

400. It is reported that the villagers made several protests in front of the police station demanding the arrest of the perpetrators. Pressured by the people, the Officer in Charge of the Hingurakgoda Police Station, an Inspector of Police, promised the villagers to arrest all the perpetrators. Three of them were then arrested. On the first day when the perpetrators were produced before the court, the teachers were threatened by supporters of the perpetrators who were present. On 8 September 2004, the Hingurakgoda Magistrate's Court decided to postpone the case to November since the investigations were not concluded.

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

Urgent appeal

402. On 7 May 2004, the Special Rapporteur sent an urgent appeal with the Special Rapporteur on the sale of children, child prostitution and child pornography concerning various cases of ill-treatment allegedly perpetrated by a primary school teacher at the Ampitiya Berawattes College in Kandy.

403. According to information received, the teacher, **Mr. V.**, a 45-year-old Buddhist monk, has physically and psychologically harassed children in many different ways since the end of 2002. It is also reported that he continuously denied the children's right to freedom of religion and that he harassed the Catholic students about their religion.

404. On 8 February 2004, he reportedly ordered the Catholic students of school year 06 to draw a cross in the sand and then made them jump over it. On 11 February 2004, he allegedly forced the Catholic children of year 07 to draw a Bible on the floor and to step on it. According to reports, if the children refused to denounce Jesus Christ, they had to leave the classroom. It is also believed that Catholic boys were forced by the teacher to undress completely and then were beaten with a cane on several occasions. According to information received, on 22 January 2004, the teacher touched the breasts of two girls in front of all the children of school year 07 and said that they should have bigger breasts. According to reports, this teacher has a history of child abuse and he had been transferred from the Monarangala Vidiyalaya School to the Ampitiya Berawattes College in 2001 amid allegations that he had abused other children. Furthermore, the children at Ampitiya Berawattes College who allegedly launched a complaint against him were forced to leave the school. Even though parents reportedly informed the principal (an ex-Buddhist monk) and the director of the school several times about the abuses perpetrated by the teacher, it is feared that no action has been taken yet.

405. It is also believed that two fellow teachers of the school were also assaulted by Mr. V. On 24 June 2003, a 24-year-old female teacher was allegedly assaulted verbally and physically by this teacher. The reports indicate that she made a complaint to the police station (police entry number: C.I.B No. 362/529 of 24-06-2003) but that there has been no serious action taken by the police. According to information received, on 12 February 2004, a Salvadorian Catholic nun who worked as a volunteer religion teacher at the school from 1 March 2003 to 29 February 2004 told the children of school year 07 to remove some plants from the flower bed. When the children were doing this, Mr. V. came and allegedly beat two of them with a cane. He also lodged a complaint with the education office about removing plants and officers came to the school to investigate. It is believed that Mr. V. finally forced the nun to leave the school. According to reports, she has been working at the Hindagala School since March 2004.

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

Government reply

407. By letter dated 1 December 2004, the Government reported that the case had been referred to the National Child Protection Authority (NCPA) of Sri Lanka. According to the NCPA, there were no complaints made by the alleged child victims, who have not been identified. The NCPA also reported that it had repeatedly requested a regional human rights organization to provide it with the names of the alleged victims in order to enable a reasonable investigation to be conducted. The Government seeks the assistance of the Special Rapporteurs to provide more information to enable the authorities to further investigate this matter.

Follow-up to previously transmitted communications

408. By letter dated 16 December 2002, the Government responded to a letter dated 5 October 2000, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture, concerning S.S. The Government reported that the Criminal Investigation Department (CID) had conducted a comprehensive investigation into the alleged incident, which so far had not resulted in the identification of the perpetrators. On 17 August 2002, the Attorney-General's Department advised the CID that a criminal prosecution could not be launched and that there would be no need to conduct further investigations into the case. However, CID was further advised that if any new information or other material relating to the offence was received, investigations should be recommenced.

409. By letter dated 24 December 2003, the Government responded to a letter dated 16 September 2002 sent jointly with the Special Rapporteur on torture (see E/CN.4/2003/75/Add.2) on the following cases:

(a) Concerning V.A. (ibid., para. 176), the Government reported that soon after the victim made a complaint to the police, immediate action was taken to investigate the incident. Four suspects were identified, arrested and remanded within 48 hours. Further, the Attorney-General appointed a State Counsel to advise the police in the investigation. At an identification parade conducted by the Maligakanda magistrate the victim identified two of the suspects arrested, both

of whom were reserve police constables. Consequently, steps were taken to demobilize both of them. The police concluded the investigations and have sent the investigative material to the Attorney-General to institute criminal proceedings against the suspects. The police, on the advice of the Attorney-General, instituted non-summary proceedings in the Magistrate's Court against two police constables and three army personnel. After having reviewed all the evidence presented to him, the magistrate committed the three accused to stand trial in the High Court. As a result of the committal, the army personnel who stood accused were suspended from service. The Supreme Court awarded Rs 150,000 as compensation, payable by the State, to the victim for the violations caused to her rights guaranteed by article 11 (right to freedom from torture) and article 13(1) (right to freedom from arbitrary detention) of the Sri Lankan Constitution. The significance of this judgement lies in the fact that the Supreme Court for the first time held that rape amounted to torture. An undertaking was given to the Court by the State that criminal proceedings would be instituted against the suspects;

(b) Concerning **P.S.** (ibid., para. 185), the Government reported that the Kopay police conducted investigations into the incident on a complaint received from the victim. The stolen jewellery was recovered and handed over to her by the court. Two suspected army personnel have been arrested and were produced before the Jaffna Magistrate's Court. They were charged in court for rape and non-summary proceedings are in progress;

(c) Concerning **a 33-year-old mother** (ibid., para. 184), the Government reported that it cannot undertake a criminal prosecution since the identity of the victim cannot be ascertained with the information given. The Government welcomes further details of the incident from the Special Rapporteur;

(d) Concerning **a mother of two children** (ibid., para. 182), the Government reported that it cannot undertake a criminal prosecution since the identity of the victim cannot be ascertained with the information given. The Government welcomes further details of the incident from the Special Rapporteur.

410. By letter dated 24 December 2003 the Government provided information on some cases referred to in a letter dated 16 September 2002 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture:

(a) Concerning **J.V.** (ibid., para. 170), the Government reported that the Special Investigation Unit established that she was arrested by army personnel of the Sanasa army camp while they were doing a check on civilians on 17 February 2001. She was handed over to the 211 field headquarters for further investigations. When the army personnel were about to check her, she swallowed a cyanide capsule. This is a well-known modus operandi of the LTTE. She was rushed to Vavuniya Hospital, where she died. The post-mortem report concluded that death was caused by cyanide poisoning. There was no evidence of torture or rape. Four bruises were found on the cheeks of her face, which were reportedly a result of attempts by a female soldier to prevent J.V. from swallowing the capsule. A verdict of suicide was returned. No evidence was found by SIU that she was raped or subjected to torture prior to her suicide. The SIU report was forwarded to the Attorney-General's Department for advice;

(b) Concerning **S.U.** (ibid., para. 171), the SIU recorded a statement by the accused police officer, who stated that on 13 September 2001, a complaint was duly recorded and dispatched to

nearby police stations. However, the victim's father stated that when he went to make a complaint, the police officer suggested that his daughter might have eloped and that he should return in two days if she did not reappear. The police officer recorded the complaint after he insisted. The same evening the victim's body was found at Mallanda bridge. Suspects for the murder were produced before the court on 9 January 2002 and the case is proceeding. The SIU concluded that there was no evidence to justify disciplinary action against the police officer, and none was taken by the police department.

411. By letter dated 23 March 2004, the Government responded to a letter dated 24 September 2003, sent jointly with the Special Rapporteur on torture, concerning **I.S.** (E/CN.4/2004/66/Add.1, para. 141). The Special Investigations Unit is conducting an investigation into the case. Steps will be taken in due course to record statements by the witnesses.

412. By letter dated 23 March 2004, the Government responded to a letter dated 26 September 2003, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on torture, concerning **S.R.** (ibid., para. 140). The Government reported that the SIU commenced an investigation into the allegation and forwarded extracts of the investigation notes to the Attorney-General's Department, seeking advice on the institution of criminal proceedings against the police officers under the Convention against Torture Act. The matter is under consideration by the Attorney-General at present.

413. By letter dated 23 March 2004, the Government responded to a letter dated 16 September 2002, sent jointly with the Special Rapporteur on torture, concerning **V.T., V.T. and T.Y.** (E/CN.4/2003/75/Add.2, para. 183). The Government reported that the three women in their statements to the SIU categorically denied that they had been raped. They further stated that the allegation had been published to bring disrepute on the Sri Lankan army. The Grama Niladhari (Village Officer) of the area where the women were living confirmed that no such incident took place, and the SIU decided to terminate the investigation.

414. By letter dated 6 July 2004, the Government provided further information in a case concerning **V.S.** (ibid., para. 178). The Government reported that following her release on bail, she had given her address as Koalupudu Mullathivu, which is an area not controlled by the security forces. All attempts made to trace the victim had failed, and the authorities have been compelled to suspend the investigations.

Observation

415. The Special Rapporteur thanks the Government for its responses.

Sudan

Allegation letter

416. By letter dated 10 December 2004 sent jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on the question of torture, the Special Rapporteur advised that she had received information concerning seven internally displaced women and girls from Deraij camp, 4

km east of Nyala, Southern Darfur State: **H.S.K.** aged 19, **Z.H.K.**, aged 30, **F.S.A.S.**, aged 15, all from the Daju tribe, and **K.A.M.**, **M.I.A.**, **Z.I.J.A.**, and **A.M.A.**

417. On 30 November 2004, as they were collecting firewood outside the camp in a place called Momo, 2 km north of Deraj IDP camp, they came across a group of armed militia who asked them about their tribal origins. The women, fearing that if they said that they were from the Daju tribe they would be assimilated with the rebels, told them that they were Massalit. The militia told them that they did not like Massalit women and proceeded to attack them by stripping and beating them with guns on their chests and heads. Half of the group were kidnapped and raped before being abandoned. The other half escaped and returned to the camp. They were all seriously injured, including one woman who was pregnant. Initially, all of them received medical treatment at the Medical Centre, Nyala. The pregnant woman was transferred to Nyala hospital, where she miscarried. The attack was reported to the police forces in Nyala.

418. The Special Rapporteurs also brought to the attention of the Government information concerning another incident, involving eight women and girls from the same camp: **J.A.**, aged 10, **S.A.A.**, aged 11, **M.I.A.**, aged 25, **H.A.A.**, aged 30 and **H.I.A.**, aged 25.

419. On 2 December 2004, as they were collecting firewood north of the camp in Torkong, they were attacked by armed militias. They were beaten and three were raped. They received medical treatment at the Medical Centre, Nyala. The Centre's lawyer, at their request, reported the incident to the police authorities at the Nyala Central (Wasat) police station; however, the police refused to file the case. The women and girls were then transferred to the Nyala hospital for treatment but were refused because they did not possess a "Police Form Number 8", the form for treatment for injuries caused by a criminal act required by Sudanese Law.

Urgent appeal

420. On 18 February 2004, the Special Rapporteur sent an urgent appeal with the Special Rapporteur on torture concerning **M.A.F.** aged 15, who was at imminent risk of being flogged.

Urgent appeal

421. On 22 May 2003, the Special Rapporteurs sent a joint urgent appeal concerning **M.A.F.** from Al Wihida (Unity) Neighbourhood of Niyala in Darfour, western Sudan, who was allegedly convicted of adultery on 17 May 2003 and reportedly sentenced to 100 lashes of the whip. **M.A.F.** appealed against the sentence on the grounds that she was pregnant. Her lawyer reportedly also objected that her age was not taken into account by the court. However, according to reports, on 15 October 2003, the Supreme Court in El Obeid reconfirmed her sentence, exhausting her avenues of appeal. In view of this, fears had been expressed that she might be imminently subjected to corporal punishment.

Urgent appeal

422. On 5 March 2004, the Special Rapporteur sent an urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture, concerning the situation of **A.L.D.**, from the Dinka ethnic group, who was at risk of being executed by stoning

after she was allegedly convicted of adultery (article 146 of the Penal Code, which prohibits sexual intercourse in the absence of a lawful relationship) by the Criminal Court in Nahud in western Kordofan State in July 2003.

423. According to the information received, A.L.D. had four children with a man from Kordofan, to whom she is not formally married. In 2003, on the basis of her confession, she was reportedly convicted of committing adultery with another Dinka man, B. Y.A., with whom she had a child out of wedlock. Ms. D. was not represented by a lawyer at her trial, nor was she allegedly provided with a Dinka interpreter, even though the trial was conducted in Arabic. It was further reported that an appeal against her sentence was sent to the Supreme Court, which will decide shortly whether the sentence will be upheld or overturned. At the time the appeal was sent, A.L.D. was reportedly awaiting the execution of her sentence at the prison in El Obeid, northern Kordofan State, with her 10-month-old baby.

Urgent appeal

424. On 26 March 2004, the Special Rapporteur sent a joint urgent appeal with the Representative of the Secretary-General on internally displaced persons, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the right to food, the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health and the Special Rapporteur on torture, regarding allegations of civilians killed, women raped and dozens of villages burned by Janjaweed militias in Darfur in the preceding few weeks. The incidents are said to be continuing.

425. It is alleged that during an attack by the Janjaweed militia on at least 10 villages in the Tawila district between Kabkabiya and al-Fasher in North Darfur, between 27 and 29 February 2004, more than 80 people were killed and a number of schoolgirls were raped. It is alleged that in February 2004, 27 girls from Kutum, Bindisi and Morniy were abducted by security and military forces and taken to Khartoum by plane, and their whereabouts are said to be unknown. Between 29 February and 1 March Janjaweed militia allegedly attacked and killed two IDPs in Um Khair village, 54 km west of Garsilla, South Darfur. On 1 March, Janjaweed militia allegedly attacked Dagarais village, 34 km west of Nylala, South Darfur, and killed 22 villagers and injured 30. On 3 March Janjaweed militia allegedly attacked four villages near Deleij, 64 km south-west of Zalingei, South Darfur, and killed two civilians. It is alleged that all the villages were burned and an unknown number of cattle were stolen. On 5 March Janjaweed militias allegedly attacked the administrative unit of Mastri, 55 km south-west of Geneina, North Darfur, and killed two villagers and injured one. It is alleged that in West Darfur, on 6 March 2004, the Janjaweed militia with three land-cruisers and about 60 men on horseback attacked al-Kureinik, a large village east of al-Jeneina, with large numbers of displaced persons. They allegedly killed 15 villagers, including a child. On 7 March about 400 Janjaweed militiamen allegedly attacked a village in Abu Ajura, Dages, 45 km south-west of Nyala, South Darfur, and killed 20 villagers and injured 30. It is alleged that on 7 March Janjaweed militia attacked Tulo and Arsonga, 4 km west of Gemeiza and Kotinga, 73 km north of Nyala, South Darfur, and killed two villagers and injured three. It is alleged that on 8 March military planes bombed villages near Kidinir, east of the Meran mountains, during which 13 women, 8 children and 4 men were killed. On 8 March 2004 three children were among 12 people allegedly killed in 'Aish Barra, a village west of al-Jeneina, near the Chad border. On 12 March Janjaweed militia allegedly attacked an IDP camp in Admata, near El Genina, West Darfur, and killed two IDPs. It is alleged that on 12 March

military planes bombed Sherya, 70 km east of Nyala, South Darfur, during which six women were killed and 25 persons injured. It is alleged that after the bombing, Janjaweed militia attacked the village and burned over 100 huts and stole 670 cattle. On 15 March an unknown armed group allegedly ambushed a commercial convoy carrying food supplies on the road between El Fashir and Kutum, North Darfur, during which one driver was injured and all the food was stolen. In Gokar, not far from al-Jeneina, at least 5,000 fleeing villagers are said to be gathered with no food, shelter or medicine, while al-Jeneina itself is reportedly currently occupied by an estimated 100,000 displaced people. The town of Mornay is reportedly full of displaced persons, with insufficient food and medicines and no doctor. It is reported that diarrhoea and fever are rife and 5-10 people are dying each day. The conflict is reportedly spilling over into Chad as the Janjaweed make cross-border raids. It is reported that more than 100 refugees and Chadians have been killed and cattle stolen during such raids in the past few months. On 7 March 2004, it is alleged that 35 armed men believed to be Janjaweed attacked border sites and killed one man in Ouendalou, wounded another in Absogo, and stole 100 cattle. On 16 March 2004 Janjaweed militia and government soldiers allegedly attacked Korma. It is alleged that 22 women were raped, several of whom were young, and a number of whom were raped out in front of their families. It is alleged that the rape victims were abducted, 16 of whom were returned to the village a few days later. It is reported that 48 people were killed, including several members of the Public Defence Force who had surrendered their weapons. Unspecified numbers of men and boys were allegedly abducted and forced to herd stolen livestock. Some of the men were allegedly severely beaten during the process. It is alleged that on the second day of the attack a government military helicopter arrived to resupply the attackers with ammunition and evacuated Janjaweed militia casualties. A second attack allegedly took place on 21 March during which the market was burned and eight more people were killed. The perpetrators in this instance were allegedly of the "Goran" tribe, Janjaweed, or both.

426. It is alleged that the Government is supporting the actions of the Janjaweed in order to pursue a strategy of forced displacement of the populations of the region. It is alleged that the Janjaweed are accompanied by soldiers, and that some of the attacks have been by the Janjaweed wearing army uniforms. Allegedly, in the past year no member of the Janjaweed has been arrested or prosecuted for participation in the attacks.

Urgent appeal

427. On 6 August 2004, the Special Rapporteur sent an urgent appeal jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding the situations of **B.M.A.**, a teacher and member of the Fur tribe and of the Sudan Women Union, a Government-affiliated NGO that works to promote women's rights in the Sudan, and **N.M.Y.**, a lawyer from the Zaghawa tribe.

428. According to the information received, on 29 July 2004, B.M.A. was reportedly arrested at her house in Nyala at approximately 1 p.m. and taken to the security offices in Nyala where she was detained for one day. It is alleged that on 30 July she was then transferred to Nyala General Prison where she is currently being held. Reports indicate that she has not been formerly charged and has been denied any visits by her family or lawyers. It is alleged that prior to her arrest she had reportedly called for peace and the disarmament of the militias in the Sudan.

429. It is further reported that on 31 July 2004, N.M.Y. was arrested at his office in Nyala at approximately 11 a.m. and reportedly taken to the security forces offices in Nyala, where he remains in detention. According to the information received, no official charges have been brought against him and it is alleged that he has been denied visitation rights. Reports indicate that N.M.Y. was arrested on suspicion of joining the armed opposition.

430. Concern was expressed that the arrest of both may be related to their calls to bring an end to the conflict in Darfur. Concern was heightened by reports that both may be at risk of torture whilst in detention.

Urgent appeal

431. On 20 October 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture regarding **Z.R.A.**, aged 35, mother of five children and four months pregnant. Z.R.A. is a well-known activist from the Nuba Mountains who lives in the Ga'ar Alhajar neighbourhood in Kadogli city, South Kordofan State. According to information received, on 4 August 2004, she was arrested by the National Security Agency (NSA) at her office at the Crop Protection Department in Kadogli and taken to the NSA offices in Kadogli. Whilst in detention, Z.R.A. was allegedly beaten with sticks on her shoulder, her fingers were twisted and she was kicked in her lower abdomen. Moreover, she was reportedly sexually harassed and one officer reportedly tried to remove her clothing. On 6 August 2004, she was transferred to Kadogli hospital and kept there for nine days. During her hospitalization, she was handcuffed and tied to her hospital bed. On 15 August, Z.R.A. was discharged from Kadogli hospital and returned to NSA custody. She has reportedly been charged under article 55 (disclosing and obtaining information and official documents) and article 66 (publication of false news) of the 1991 Penal Code. In view of the treatment Z.R.A. has allegedly already undergone, serious concerns are expressed that she may be at risk of further ill-treatment and that the life and health of the child she is carrying may be at risk.

Urgent appeal

432. On 17 November 2004, the Special Rapporteur sent a joint urgent appeal with the Representative of the Secretary-General on the human rights of internally displaced persons, regarding **13 women** residents of al-Geer camp. According to the allegations received, in the early morning of 10 November 2004, policemen carried out a series of violent attacks against displaced people in camps in South Darfur in order to evict them. Two separate attacks on al-Geer camp took place, shortly after midnight and at 5 a.m., and were witnessed by United Nations staff members, African Union ceasefire monitors and the press. In both incidents four carloads of police fired bullets into the air, threw tear gas into tents and beat residents, ordering them to leave the camp. At least 34 people, 13 of whom were women, were taken into police custody, where they were severely beaten. The 21 men were released on bail on 11 November, following United Nations intervention. One of those released, Shaikh Taher Hasaballah, is said to have been transferred to hospital as a result of the injuries he sustained in custody. The 13 women remain in detention. In view of the allegations that those arrested were subjected to torture and ill-treatment, concern is expressed that the 13 women may be at risk of torture or other forms of ill-treatment. In particular, concerns have been expressed that they may be at risk of sexual violence.

Urgent appeal

433. On 17 November 2004, the Special Rapporteur sent a joint urgent appeal with the Representative of the Secretary-General on the human rights of internally displaced persons and the Special Rapporteur on the sale of children, child prostitution and child pornography regarding 13 internally displaced women and girls from Kalma camp, **A.I.A.**, aged 14, **F.Y.M.**, aged 16, **M.I.A.A.**, aged 17, **Z.S.A.R.**, aged 15, **A.M.I.**, **A.S.A.**, **F.Y.N.**, aged 60, **F.Y.M.**, aged 25, **F.A.R.**, aged 50, **H.A.A.**, aged 35, **S.H.**, aged 18, **H.A.J.**, aged 25, and **H.A.A.al-R.** According to the allegations received: On 2 November 2004, they were kidnapped whilst they were collecting firewood outside the camp. It is believed that the kidnappers belong to the Janjaweed militias. In view of their detention in an unknown location, fears have been expressed that they may be at risk of torture or other forms of ill-treatment, including sexual violence.

Observation

434. The Special would like to draw attention to a press release issued on 26 March 2004 jointly with the Special Rapporteur on torture, the Special Rapporteur on Contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the sale of children, child prostitution, and child pornography, the Special Rapporteur on the right to food, and the Representative of the Secretary-General on internally displaced persons, by which they expressed their grave concern at the systematic human rights violations, committed mainly by Government-allied militias such as the Janjaweed, the Murahleen and the Popular Defence Forces against the population in the Darfur region—mostly from the Fur ethnic communities of the Masalit, Dajo, Tunjur, Tama and Zaghawas. The experts notably drew attention to reports of attacks against refugees and displaced persons, rape of women and girls, abduction of children, the burning of dozens of villages, looting, and destruction of livestock by the militias.

Observation

435. The Special Rapporteur would like to reiterate her interest in receiving a response from the Government in regard to the allegations submitted.

Switzerland

Lettre d'allégations

436. Par une lettre en date du 6 août 2004, la Rapporteuse spéciale, conjointement avec le Rapporteur spécial sur la torture, a informé le Gouvernement qu'elle avait reçu des renseignements concernant **W. M-I**, née le 3 mars 1969, de nationalité somalienne, résidente à Genève au bénéfice d'un permis de séjour de type « C ». Le 14 juillet 2004, deux policiers, appelés par un employé de l'agence de la Banque cantonale de Genève, quartier des Pâquis, place de la Navigation, auraient arrêté **W. M-I** qui se trouvait à la banque et l'auraient conduite au poste de police des Pâquis, rue de Berne. **W M-I** aurait subi une agression physique de la part

des deux policiers, qui l'auraient aussi insultée et lui aurait demandé de quitter la Suisse. Un certificat médical du 15 juillet 2004, dont les Rapporteurs spéciaux ont reçu copie, établit que W. M-I souffre de contusions avec dermabrasions de la face (front gauche et tempe gauche) et présente un syndrome de la charnière dorsolombaire. Suite à cet incident, une plainte aurait été déposée par son avocat.

Réponse du Gouvernement

437. Par une lettre en date du 5 octobre 2004, le Gouvernement a transmis la réponse du Département de la justice, accompagnée des pièces de la gendarmerie genevoise. Sur la base de ces documents décrivant précisément les conditions d'arrestation de W. M-I, le Gouvernement a répondu que les gendarmes avaient fait un usage proportionné et modéré de la contrainte envers W. M-I, qui n'a pas été blessée, ni ne s'est manifestée pour se plaindre de mauvais traitements.

438. La Rapporteuse spéciale remercie le Gouvernement pour sa réponse.

Thailand

Follow-up to previously transmitted communications

439. By letter dated 8 April 2004, the Government responded to a letter dated 18 September 2003, sent jointly with the Special Rapporteur on the human rights of migrants, concerning **S.H.** (E/CN.4/2004/66/Add.1, para. 154). The Government reported that on 2 September 2003, one day after the body of S.H. was found, Thai police officials promptly arrested a suspect, who was eventually charged on 26 November 2003 with rape and premeditated murder. As the number of witnesses is considerable, a series of hearings have been scheduled. Two courts are assigned to deal with their testimony, namely the court of Mae Sot, Tak province, and the court of Chiang Mai province. Despite S.H.'s status as a migrant worker, her case is sure to receive due justice under Thai criminal law. Moreover, the Criminal Case Compensation Act of 2001 also indicates the possibility for compensation to be made to the family of S.H.'s.

Observation

440. The Special Rapporteur thanks the Government for this response. She would appreciate receiving further details on the outcome of the trial.

Togo

Lettre d'allégations

441. Par lettre en date du 27 avril 2004, envoyée conjointement avec le Rapporteur spécial sur la vente d'enfants, la prostitution d'enfants et la pornographie impliquant des enfants, la Rapporteuse spéciale a attiré l'attention du Gouvernement sur des allégations d'**exploitation sexuelle d'enfants** dans un quartier du centre de Lomé connu sous le nom de **Devissime**, ce qui signifie « marché des enfants » dans le dialecte mina. Selon les informations reçues, des fillettes et jeunes filles âgées de 9 à 15 ans se prostitueraient dans ce quartier, parfois pour moins d'un dollar.

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

443. Les rapports indiquent que le Togo n'a pas une législation efficace pour punir les personnes qui exploiteraient ces fillettes et jeunes filles. Les enfants se seraient elles-mêmes plaintes au sujet des policiers qui patrouilleraient dans ce quartier et qui leur auraient demandé des relations sexuelles sans les payer. Amivi, une jeune fille de 13 ans, aurait déclaré : « Les soldats qui sont censés nous protéger lors de leurs patrouilles veulent avoir des relations sexuelles avec nous sans payer et nous sommes trop effrayées pour dire non, alors nous devons accepter sans rechigner ».

Observation

444. La Rapporteuse spéciale souhaite réitérer son intérêt à recevoir une réponse du Gouvernement au sujet des allégations portées à son attention.

Turkey

Allegation letter

445. By letter dated 28 April 2004 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that she had received information on the alleged lack of due diligence by local authorities in their duty to prevent the honour killing of **Güldünya Tören**, aged 22. According to information received, Ms. Tören was raped by her paternal cousin in her village, Bitlis, and became pregnant as a result. Refusing to take her as a second wife, the perpetrator reportedly left the village. According to tribal traditions, Ms. Tören was allegedly sentenced to death for being pregnant outside of marriage. The reports indicate that she sought police protection in Bitlis, but she was reportedly sent back to her family. Her family allegedly agreed to postpone her death until the birth of the child. Ms. Tören was allegedly forced to leave her village and to go to Istanbul to live with her paternal uncle until the birth of the child. Once her child was born, the child was reportedly given to a family by her brothers and Ms. Tören was locked in a room and given a cable to hang herself. According to reports, she managed to escape and reached Fatih, Sehremini Police Station, where she allegedly asked for protection. However, the police reportedly called Ms. Tören's brother and uncle to discuss the allegations and she was released into her uncle's custody upon receiving a promise that they would not kill her.

446. It is reported that on 25 February 2004, she was shot in public by her brothers in Istanbul and was taken to Dr. Sadi Konuk Training and Research Hospital in Bakirköy, Istanbul. In the hospital she reportedly accused her brothers of the crime. It is alleged that the authorities did not take the necessary precautions to protect Ms. Tören whilst she was in hospital recovering from her brother's earlier attempts to kill her. It is reported that one of her brothers entered her hospital room and shot her for the second time. She then fell into a coma and her life was allegedly ended

by the doctor's removal of her life-support equipment upon approval by her family. Güldünya Tören was declared dead on 27 February 2004.

447. The Office of the Application of Women's Rights of the Istanbul Bar Association reportedly filed a complaint with the Chief Prosecutor of Bakirkoy, in Istanbul. (File No. 2004/10268 dated 2 March 2004). The Chief Prosecutor's Office has reportedly filed an action and the case is under investigation. Warrants have reportedly been issued for the arrest of Güldünya Tören's brothers. However, according to information received, no progress has been made in investigating the alleged lack of due diligence by the State in preventing this crime. All persons found to be negligent in their duty to protect Güldünya Tören should be prosecuted.

448. Moreover, according to information received many other women in Turkey are under threats of communally sanctioned honour killings and in need of protection. The reports indicate that the current legislation, government policy and practice do not protect women against honour killings.

Government reply

449. By letter dated 15 December 2004, the Government reported that Güldünya Tören did not seek protection either from the police or the gendarmerie in Bitlis. Ms. Tören applied to the Sehremeni police station in Fatih district, Istanbul, and stated that she had been threatened by her uncle. She was committed to the Women's Social Care House on the same day. In the meantime, her uncle was found and interrogated by the police. After having been shot in the leg by one of her brothers, Ms. Tören was taken to the Doktor Sadi Konuk Hospital and interrogated. She refused to file a complaint against him and to give information about the possible reasons for the incident. The police, however, upon making an inquiry, issued an arrest warrant for her two brothers. While they were both being sought by the police, on 26 February, an unknown person entered the hospital room of Ms. Tören and shot her twice in the head. The fugitive suspects were apprehended on 8 April 2004 in possession of a pistol. It was later established that the pistol was the one was used in the commission of both shootings. The lawsuit filed against the alleged perpetrators of Ms. Tören's murder is pending. The next hearing of the trial will be held on 29 December 2004. An investigation was initiated by the Bakirköy Public Prosecutor's Office against the police officers for failing to perform their duty. The relevant dossier was referred to the Istanbul Provincial Administrative Board for administrative inquiry, in line with the relevant legislation. Having inquired of relevant doctors and other medical personnel, as well as security personnel, the administrative authorities concluded that the offence attributed to the accused is not substantiated and therefore there is no need to issue permission for the opening of a judicial investigation. However, the decision is not final, the Public Prosecutor's Office and the complainants having the right to appeal the decision at the relevant court.

Observation

450. The Special Rapporteur would like to acknowledge the positive steps taken to punish perpetrators of so-called honour killings in the new Criminal Code and urges the Government to raise awareness and institute protective measures to prevent such crimes from occurring.

Allegation letter

451. By letter dated 30 September 2004, sent jointly with the Special Rapporteur on torture, the Special Rapporteur notified the Government that she had received the following allegations, to which the Government responded by letter dated 14 December 2004

452. **H.T.**, aged 23, was held in detention between 8 and 11 March 2002 at the Anti-Terror Branch of Istanbul police headquarters on suspicion of membership of an illegal organization. While in custody, a stream of water was reportedly forced up her vagina with a high pressure hose, she was stripped naked, spat at and forced to sit in excreta. A complaint was formally filed with the public prosecutor in Fatih, Istanbul. Her lawyers reportedly requested that she be sent from prison for psychological treatment.

Government reply

453. The Government reported that H.T. was taken into custody by the Istanbul Security Directorate on suspicion of membership of an illegal organization. An investigation was initiated by the Fatih Public Prosecutor's Office into allegations that she was ill-treated in custody between 8 and 11 November 2001. Statements were taken from the complainant and suspects. The report of the Forensic Medicine Institute, dated 11 March 2002, was examined, and the Public Prosecutor decided not to prosecute on 29 August 2002. An appeal was rejected by the Beyoglu 3rd Assize Court on 17 January 2003.

Allegation

454. **Z.D.**, a Kurdish woman from Hakkâri, aged 28, married to an Iraqi man and living in Iraq, she returned to Turkey to visit her family without her official documents. On 20 August 2002 Z.D., her two brothers, a visitor to the house and her brother's son, Savaş, were arrested and taken to the Anti-Terror Branch of Hakkâri police headquarters. Police reportedly wanted her to make a statement that she was an active member of the Partiya Jînmên Azad (PJA, also known as KADEK) and that she had come to Turkey to make propaganda before the elections. Reportedly, she was blindfolded, her hair was pulled and torn out, her head was banged against the wall whilst she was held by her hair, she received blows to the neck, arms, torso, feet and legs, her face was slapped and beaten, electric shocks were applied to her ear. She was allegedly threatened with electric shocks to her breasts, her breasts were hit hard, she was threatened with rape, and immediately after this threat all the buttons were ripped from her shirt. She allegedly heard her brothers yelling and being tortured in the nearby cells. Z.D., who does not read or write, eventually had her thumbprint placed on a pre-prepared statement. On 24 August 2002 she was taken for a medical exam, and given a report detailing her injuries. She was also reportedly forcibly subjected to a "virginity test". It is further reported that a trial was opened against the perpetrators, who have reportedly not been suspended from active service.

Government reply

455. The Government reported that an intelligence report was received by the Hakkari police, warning that a member of the PKK/KONGRA-GEL terrorist organization would illegally enter Turkey from northern Iraq. Z.D. was arrested as she entered the country on 20 August 2002. After being referred to the judicial authorities on 24 August 2002, she was arrested and committed to the prison. She received a medical examinations before and after the detention period, on 20 and 24 August, respectively. The second medical report indicated a slight wound

on her head, and was assumed to be from an old boil or pimple. In her testimony at the Public Prosecutor's Office, she said she did not know how the wound had occurred.

Allegation

456. **S.B.**, a Kurdish woman, was reportedly taken into custody on 22 August 2002 at the Anti-Terror Branch of Hakkâri police headquarters on, where she was kept for four days, during which she reportedly had her hair pulled and torn out, her head beaten against the wall, she received blows to various parts of her body, and she was given electric shocks to her ear and a finger on her left hand. It is also reported that she had her throat squeezed with electric cable, that she was blindfolded and had a handkerchief stuffed into her mouth to prevent her from making noise, that she was threatened with rape, insulted, and promised money if she signed a pre-prepared statement. When she refused the money, she was reportedly beaten again and threatened with rape and electric shocks to her breasts, that her children would be killed, that she would be killed and her body would be thrown into the river. S.B. was reportedly taken to the doctor twice whilst she was in custody, but it is alleged that no report resulting from her examinations has been forthcoming.

Government reply

457. The Government reported that S.B. was reported to be a member of the PKK/KONGRA-GEL terrorist organization. Upon an intelligence report suggesting that she would enter Turkey illegally from northern Iraq, she was arrested by the Hakkari police on 23 August 2002 as she entered the country. She was referred to the judicial authorities on 26 August, arrested and committed to prison. Medical reports obtained on 23, 24 and 26 August indicated no trace of ill-treatment. The Hakkari Public Prosecutor's Office initiated an investigation based on complaints of the two persons of ill-treatment; however, it concluded with a decision not to prosecute for lack of credible and substantiating evidence.

Allegation

458. **N.C.** was reportedly detained at the Anti-Terror Branch of Istanbul police headquarters between 23 and 27 September 2002. Reportedly, when she refused to sign a statement, she was taken by her hair and thrown to the ground. A policeman spat into her mouth and nose, and threatened her with rape. She had cold water tipped over her. Three policemen allegedly stripped her naked and blindfolded her. She was allegedly forced to remain naked for half an hour and was fondled all over and threatened with rape. She was also reportedly asked whether she was a virgin. Then she was reportedly put on the ground and rape was simulated. Allegedly she was also threatened with having a hose inserted inside her. Reportedly, her face was stroked whilst she was threatened. She wanted to vomit but was reportedly told "if you vomit we will make you lick it up". Water was poured in the direction of her vagina and personal comments about her menstruation were made. She was allegedly given electric shocks twice. A policeman allegedly squatted in front of her whilst her hands were bound, and tried to force her to take his penis into her mouth. She was forbidden to go to the toilet or to eat. It is reported that she was forced to sign a statement. N.C. was examined by a Forensic Medical Institute doctor who wrote a report on her condition on the day she was taken from police custody to prison. The examining doctor reportedly requested a report to determine "whether or not there are lesions relating to sexual assault (hymen examination)", although this is an inappropriate substitute for a thorough sexual

assault investigation. Her lawyers have filed a complaint against the alleged perpetrators with the public prosecutor.

459. **S.Y.** was reportedly detained at Istanbul Anti-Terror Branch between 24 and 27 September 2002. She was initially searched by a female police officer before being taken elsewhere. Whilst she was blindfolded a male police officer allegedly started moaning and making noises as though he was having sex. The same person reportedly swore continuously, and repeatedly opened **S.Y.**'s mouth and spat into it. As a result of the effects of the saliva in her mouth, **S.Y.** retched. Whilst other officials held her hands behind her back, she was hit repeatedly on the head to prevent her from spitting out the saliva, as a result of which she became dazed and confused. She was reportedly grabbed by the hair and thrown to the ground. She was allegedly asked whether she was a virgin. She was reportedly deprived of sleep, food and drink, and blindfolded at various times. She was reportedly told to strip, which she did, and police officers again started swearing at her and teasing her. It is also reported that when she was blindfolded she was put on the ground and one of the police officers also stripped and rubbed his hands and penis against her. Afterwards, **S.Y.** was allegedly taken naked to the toilet and sprayed with cold pressurized water. On the third day in custody, she was reportedly stripped naked and sexually assaulted again. She was allegedly threatened with anal rape using the pressurized water hose, which the police allegedly attempted to insert into her anus. On 27 September 2002 she was remanded to Bakirköy Women and Children's Prison. A forensic doctor examined her and wrote a report on her condition the day she was taken from police custody to prison. It is further reported that a trial was opened against the perpetrators, who have reportedly not been suspended from active service.

Government reply

460. The Government reported that the persons named were apprehended by the Istanbul police on 23 September 2002 during operations against the PKK/KONGRA-GEL terrorist organization. After being referred to the Public Prosecutor's Office at the Istanbul State Security Court on 27 September 2002, they were arrested. Upon their complaints, the Chief Public Prosecutor's Office, Istanbul, filed a lawsuit against four police officers from the Istanbul Directorate of Security at the Istanbul Serious Crimes Court No. 4 on 4 April 2003. The case is pending. The Istanbul Directorate of Security undertook an administrative inquiry into the allegations, and concluded that there is no need to subject the officers to administrative penalties.

Urgent appeal

461. On 17 March 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on torture and the Special Representative of the Secretary-General on the situation of human rights defenders regarding three Iranian nationals; **F.A.**, **N.M.H.Z.** and **S.P.**, who have been seeking asylum in Ankara. According to information received, they are due to be deported to the Islamic Republic of Iran with their children in four days. All three women are said to be women's rights activists, and members of the International Federation of Iranian Refugees (IFIR)-Turkey. While in Turkey, it is reported that they participated in public conferences and meetings in the defence of women's rights in Iran, expressing criticism against the Iranian regime and calling for strikes against the Iranian Government. Concern is expressed that their rights to life and security may be at risk if they are returned.

Government replies

462. By letters dated 29 March and 20 April 2004, the Government reported that the request for asylum of the above-mentioned persons was refused by the UNHCR Office in Ankara, but a reassessment of S.P.'s application was granted. All have applied for permission to stay in Turkey with "ordinary alien" status, and this is being considered by the Ministry of the Interior.

Urgent appeal

463. On 31 August 2004, the Special Rapporteur sent an urgent appeal on behalf of **R.M.**, a 20-year-old Iranian woman.

464. According to information received; in 1999 R.M. who was 14 years old at the time, went to Turkey with her family to seek asylum. Their application for refugee status was rejected by UNHCR. The family moved to the city of Burdur where R.M. married an Iranian asylum-seeker in the year 2001. It is reported that because her husband regularly abused her and forced her into having sexual relations with some of his male friends, she divorced him. In order to survive, she then started engaging in prostitution. R.M. was said to be six-months pregnant. In view of her situation, fears were expressed for her life as well as for her physical and mental integrity if she was returned to Iran.

Follow-up to previously transmitted communications

465. By letter dated 12 May 2004, the Government provided further information concerning **G.D.** (E/CN.4/2003/75/Add.2, para. 218). The Government reported that she did not respond to the invitation of the Public Prosecutor to elaborate on her allegations, and her whereabouts could not be determined. The investigation, conducted in the absence of her own testimony, concluded in a decision not to prosecute. As for her complaint against the police officer for allegedly ill-treating her, the Public Prosecutor's Office decided to initiate an investigation, but the Office of the Governor did not give the necessary permission for the investigation. The appeal of the Office against this decision at the Midyat Serious Crimes Court was rejected. On 4 September 2001, the lawyer of G.D. presented a new medical report to the Public Prosecutor's Office which was obtained from the Izmir Chamber of Medicine. The Office decided to reinstate the investigation in accordance with article 167 of the Penal Procedure Code.

466. By letter dated 27 May 2004, the Government responded to a joint communication of 3 July 2003 sent with the Special Rapporteur on torture, concerning **G.G.** (E/CN.4/2004/66/Add.1, para. 156). The Government reported that the Office of the Public Prosecutor in Gaziosmanpasa had initiated an investigation upon the complaint by G.G. The clothes that she wore on 14 June 2003 (the date when she was allegedly abducted and ill-treated) were sent to the Forensic Science Department to trace any possible evidence. Inquiries for evidence and possible witnesses were carried out in the area of the alleged abduction. Upon the instruction of the Public Prosecutor, G.G. was sent by the police to Haseki Hospital for a medical examination on 15 June 2003. According to the medical report, superficial grazes were found on her body. In order to establish whether she had been sexually assaulted, she was then transferred to the specialized

branch of the Forensic Science Department, where she received a medical examination. The Office of the Public Prosecutor requested in writing the Security Directorate of Istanbul to identify the police officers on duty and the persons working in and around the area of the alleged abduction, to establish the identities of the perpetrators and to investigate whether the alleged perpetrators of rape were police officers. In parallel to the judicial process, the Security Directorate of Istanbul appointed a Director of Security to investigate the case further. In that regard, the testimony of G.G. was taken. She repeated the allegations, but indicated that she could not identify the persons who had assaulted her since she could not see their faces. Therefore, it was not possible to determine whether the perpetrators were actually police officers. According to the rulings of the Council of State (administrative high court of appeals), cases which cannot be investigated due to the absence of the suspects should be returned back to the relevant authority. Therefore, since no security official had been accused at that stage, the administrative investigation was suspended. In the light of the foregoing, two separate investigations were initiated upon the complaint of G.G. It should be noted that the investigation initiated by the Public Prosecutor's Office of Gaziosmanpasa is a judicial process, which is separate from that of the Security Directorate of Istanbul, being an administrative one. Against this backdrop, the investigation carried out by the Public Prosecutor's Office is still ongoing.

467. By letter dated 6 December 2004, the Government provided information concerning **N.B.** (E/CN.4/2004/66/Add.1, para. 157). The Government reported that the trial of the two police officers had concluded on 13 October 2004. The court acquitted the accused for lack of sufficient and substantiating evidence. One of the officers was on the duty list at Adnan Menderes Airport on the day of the alleged incident.

Observation

468. The Special Rapporteur would like to thank the Government for its responses. The Special Rapporteur wishes also to express satisfaction in regard to the cooperation developed with UNHCR vis à vis some of the above cases.

United Kingdom of Great Britain and Northern Ireland

Urgent appeal

469. On 11 June 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on freedom of opinion and expression, regarding **N.K.**, a 24-year-old Nepalese citizen from Khotang district. She is reportedly at risk of immediate deportation from the United Kingdom to Nepal, where it is alleged that she would be at risk of detention, torture and other forms of ill-treatment, on the grounds of her political opinion and activities as a human rights defender, and particularly her involvement with the Maoists. It is alleged that she has been subjected to death threats in Nepal. She is reported to be detained at London Heathrow Airport, Terminal 2. It is alleged that on 3 March 2001 N.K. participated in a procession organized by the Maoists from Khotang district for human rights, against alleged corruption of the Government and the police, and for land reform. It is alleged that she was detained in a police van where she was kicked and slapped by officers. Later, she was allegedly beaten, sexually assaulted and had her hair pulled at Katamchka police station. She was reportedly released one week after her family was allegedly forced to pay a bribe at the police station. As a result of the ill-treatment, she was unable to walk

for a number of weeks. Ms K. reportedly belongs to a family of active Maoists. Her father is reported to be the leader of the Maoists in the Khotang district. Her older brother and four other Maoists were allegedly arrested and tortured after a meeting on 16 April 2001, and detained for a week at the police station. Her family reportedly fled to Kathmandu before her father and brother finally decided to flee the country. As a female member of the Maoists, her activities are reportedly considered high profile and she is at risk of gender-specific violence. The police reportedly suspected her of carrying messages to Maoist rebels.

Government reply

470. By letter dated 16 July 2004, the Government reported that the United Kingdom has in place well-established procedures for the assessment of applications involving asylum and human rights issues. The decision to detain Ms. K. on 8 June 2004 was not arbitrary and was made in the belief that she would be removed on 9 June 2004. Those arrangements were cancelled following representations to OHCHR and submission of a further application to remain in the United Kingdom. Once it became clear there was no immediate prospect of removing Ms. K., she was released from detention on 17 June. The Government had carefully considered Ms. K.'s case in the light of its domestic and international obligations, including the Convention relating to the Status of Refugees and the European Convention on Human Rights, but concluded that she does not face persecution or a real risk of detention, torture, or inhuman and degrading treatment or other forms of mistreatment on account of her political opinion on return to Nepal. There is no evidence that Ms. K. has been subject to persecution on account of her gender. The only incident she has raised is the assault by the police and this was not believed by an independent adjudicator to have occurred. She has not raised any concerns about discrimination on account of her gender, but in any event the risk of such discrimination does not give her a right to remain in the United Kingdom if it does not amount to persecution or inhuman and degrading treatment, and there is no evidence that she faces discrimination which reaches this threshold. Since the initial decision to refuse her asylum was taken, Ms. K. has made full use of the avenues available to challenge this decision, and has had legal representation throughout. The independent immigration appeal adjudicator did not find her to be a credible witness and simply did not believe her claims were true. Her case was then examined by the Immigration Appeal Tribunal, the Administrative Court, the Court of Appeal and the European Court of Human Rights, none of whom found any reason to reopen the matter. She has therefore exercised her right to fair proceedings before an independent and impartial tribunal. She has made an application to remain in the United Kingdom on the basis of a relationship to a settled person and no action to remove her will be taken until this application is resolved.

Observation

471. The Special Rapporteur thanks the Government for its reply. She would like to express her interest in receiving any additional information in relation to N.K.'s application to remain in the United Kingdom.

Uzbekistan

Allegation letter

472. By letter dated 8 October 2004, the Special Rapporteur advised the Government that she had received information concerning the following cases.

473. **G.T.**, aged 32, from the town of Chimbay. According to information received, Ms. T. was abducted in June 2004 and forced to marry a man she did not know. After attending a birthday party, she was reportedly dragged into a car by her future husband's friends and taken to his home. It is reported that Ms. T. is a Karakalpak, a Muslim group of the northern deserts of the country, and whose social customs make it impossible for a stolen bride to return home after having been kidnapped.

474. **M.Z.**, from Nikus in the Karakalpakstan region. According to information received, Ms. Z. was abducted by one of her fellow college students and forcibly married. After two months, the girl escaped and returned home. She tried to take legal action against her husband, but her parents forced her to go back to his home. Ms. Z. then tried to commit suicide by swallowing acid. She survived, but her parents refused to take her back. According to information received, she is now living with her brother.

475. **J.Y.** was kidnapped by her boyfriend. It is reported that both families were involved in the arrangement; however, when the boy's family realized that they would have to pay for Ms. Y.'s studies, they chose another bride who had already finished higher education.

476. It is alleged that in these wife-stealing cases, the future husband usually rapes the abducted woman as a way of making the marriage irreversible, since the victim then has little chance to marry anyone else. Kidnapping of brides is said to be widespread as it prevents the man from paying the high bride price, known as *kalym*, that is customarily required. It is further reported that the police do little to prevent such forced marriages. The men are said rarely to be held accountable for their actions and those convicted are said only to be sentenced to the payment of a small fine.

Government reply

477. By letter dated 13 December 2004, the Government reported that the allegations do not correspond to the real situation, which does not allow for confirmation of the alleged facts. There have been no claims received by law enforcement bodies with regard to these persons. The Office for Civil Registration has no registration of their marriages.

Observation

478. The Special Rapporteur thanks the Government for its reply. However, she would like to remind the Government of its obligation to thoroughly investigate all cases of violence against women, even in the absence of a formal complaint.

Urgent appeal

479. On 19 April 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on torture, concerning the following cases.

480. **N.K.**, aged 26. On 5 April 2004, at 5.30 a.m., she was allegedly taken from her home, together with her parents, by a group of 20 uniformed police officers to the Sabir Rakhimov district police station, Tashkent. The officers allegedly claimed to have found Islamic fundamentalist materials in the form of a book, leaflets and a box of videotapes. At the police station they were allegedly interrogated separately and then taken to the Tashkent City Department of Internal Affairs (GUVD). Her parents were reportedly released without charge the following evening. It is alleged that the GUVD has refused to acknowledge that N.K. is in their custody or to provide any information on her whereabouts. It was alleged that N.K. was detained without charge because her husband and her two brothers, all devout Muslims, were currently serving long prison sentences, convicted of anti-State activities and membership of banned religious organizations. It was reported that N.K. had not yet recovered from major surgery and chemotherapy.

Government reply

481. By letter dated 27 May 2004, the Government reported that on 7 April 2004 Ms. K. was charged in this case pursuant to article 159, paragraph 1, of the Criminal Code, concerning infringement of the constitutional order. On 8 April, following a decision of the Procurator-General's Office, detention in custody was ordered as a preventive measure. She is at present in remand centre No. 1 (SIZO-1) of the Central Penal Correction Department of the Ministry of Internal Affairs. A decision regarding Ms. K. will be taken on the basis of the findings of the preliminary investigation into the criminal case. Since her detention Ms. K. has been allowed access to a lawyer, who visits her regularly. Moreover, Ms. K.'s mother has already come to see her several times. With regard to Ms. K.'s state of health, it should be pointed out that medical staff of the remand centre and the local representatives of the International Committee of the Red Crescent have examined her several times. Her state of health is at present considered to be normal and she has no complaints in respect of the remand centre's medical staff. Allegations that Ms. K. is being kept in a solitary confinement cell and that relatives were not informed of her whereabouts do not correspond to the real situation. Firstly, she is being held in a common cell at the remand centre. Secondly, after her detention Ms. K.'s relatives were informed of the arrest.

Observation

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

Zimbabwe

Urgent appeal

483. On 2 June 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture regarding **Mrs. K.** According to reports received, Mrs K. (a Finnish citizen living in Zimbabwe) was assaulted and taken from her home in Chimanimani, eastern Zimbabwe, on 28 May 2004. A group of people, which may have been several hundred strong, reportedly stoned her home, then dragged her through Chimanimani and forced her to clean up local offices of the Movement for Democratic Change (MDC). The MDC offices were earlier allegedly destroyed by members of the same group who are reportedly responsible for the

assault, detention and humiliation of Mrs. K. Concern was expressed that the local police allegedly did not take appropriate action to protect her.

Government reply

484. By letter dated 3 June 2004, the Government reported that Mrs. K. was allegedly involved in local politics. She further allegedly incensed the locals by letting her house be used as an office for the opposition MDC political party. The Government was not aware that she had allegedly been assaulted because of her gender. The Government is most opposed to the politics of violence. This alleged mob reaction to Mrs. K.'s alleged provocation is being investigated and further details will be provided. The Government pointed out that non-citizens involving themselves in local would be considered a provocation.

485. The Special Rapporteur thanks the Government for its response. However, she would like to remind the Government of its duty to thoroughly investigate all cases of violence against women. In this context, the Special Rapporteur would appreciate receiving more precise information on the investigations conducted into the allegations of Mrs. K's mistreatment.

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

486. By letter dated 28 May 2004, the Special Rapporteur, jointly with the Special Rapporteur on the human rights of migrants and the Special Rapporteur on sale of children, child prostitution and child pornography, notified UNMIK that they had received the following information.

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

488. The Special Rapporteurs expressed their deep concern over information that indicates that UNMIK fails to prosecute international personnel suspected of involvement in trafficking, or of knowingly using the services of trafficked women. It is also alleged that individual members of the UNMIK police have been involved in trafficking. The Special Rapporteurs indicated that it had been brought to their attention that the UNMIK Trafficking and Prostitution Investigative Unit (TPIU) have recently shown greater willingness to investigate reports of the involvement of UNMIK personnel in trafficking, and to request a waiver of immunity from prosecution.

However, criminal prosecutions reportedly remain rare. It is also reported that no KFOR personnel suspected of trafficking or of using the services of trafficked women or girls have been prosecuted in Kosovo.

Communication received from UNMIK

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

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

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

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

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

494. The second aspect of UNMIK's approach has been aggressive police action against trafficking and prostitution. This has resulted in significant progress against trafficking and prostitution in Kosovo over the last four years. During 2003, TPIU conducted 2,047 raids, operations and bar checks directed at premises where trafficking in persons or prostitution activities were suspected. As a result, 57 establishments were closed down, 69 persons were

arrested for offences relating to prostitution, solicitation or procurement of prostitution, pimping and possession of false documents, and 60 charges for trafficking were brought resulting in 17 convictions, while several cases are ongoing in the courts. TPIU works closely with UNMIK Border/Boundary Police to intercept human traffickers at the various crossing points along the international border and administrative boundary line.

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

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

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

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

499. From the beginning of 2002 until April 2004, during raids and bar checks TPIU found 52 KFOR soldiers, 3 international policemen and 8 international civilians from various agencies in "off limits premises". The KFOR soldiers were handed over to the Military Police and the civilian staff to their respective departments for further investigation and appropriate disciplinary action. In accordance with UNMIK Police policy, the international police officers were

repatriated to their home countries. It should be noted that the number of internationals involved does not appear to support Amnesty International's contention that 20 per cent of the customers of trafficked women come from the international community.

500. The fifth dimension of UNMIK's approach has been to address this regional phenomenon within the framework of international cooperation. UNMIK works closely with the South-East European Cooperative Initiative (SECI) on transborder and regional initiatives in the fight against trafficking. In collaboration with the Stability Pact Task Force on Trafficking in Human Beings, UNMIK has been involved in developing a comprehensive strategy to combat trafficking in human beings and has been engaged in regional training, exchange and cooperation plans. Furthermore, UNMIK has signed police cooperation agreements with all neighbouring jurisdictions including Serbia, Montenegro and Albania. This reinforces cooperation in the fight against cross-border organized crime and in particular trafficking in human beings.

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

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

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

Observations

504. The Special Rapporteur would like to thank the UNMIK for its prompt and detailed reply.

- - - - -