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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF TORTURE AND DETENTION

Torture and other cruel, inhuman or degrading treatment or punishment

Report of the Special Rapporteur, Theo van Boven

Addendum

Summary of information, including individual cases, transmitted to Governments and replies received*

* 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.

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Introduction

1. This addendum to the report of the Special Rapporteur contains, on a country-by-country basis, summaries of reliable and credible allegations of torture and other cruel, inhuman or degrading treatment or punishment that were brought to the attention of the Special Rapporteur, and were transmitted to the Governments concerned. It also contains replies from Governments. This addendum does not illustrate the state of torture and other cruel, inhuman or degrading treatment or punishment throughout the world, but rather reflects the state of information brought to the attention of the Special Rapporteur.

2. The Special Rapporteur would like to recall that in transmitting these allegations to Governments, he does not make any judgement concerning the merits of the cases, nor does he support the opinion and activities of the persons on behalf of whom he intervenes. The prohibition of torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right, and every human being is legally and morally entitled to protection. When the Special Rapporteur receives reliable and credible information that gives grounds to fear that a person may be at risk of torture or other forms of ill-treatment, he may transmit an urgent appeal to the Government concerned. The communications sent by the Special Rapporteur have a humanitarian and preventive purpose, and do not require the exhaustion of domestic remedies. Governments are requested to clarify the substance of the allegations, take steps to protect the person's rights, and are urged to investigate the allegations and prosecute and impose appropriate sanctions on any persons guilty of torture and other cruel, inhuman or degrading treatment or punishment.

3. Observations by the Special Rapporteur have also been included where applicable. Such observations, which sometimes note the most recent findings of other supervisory bodies, in particular United Nations treaty bodies, are usually made when the information suggests that there may be a problem extending beyond the exceptional or isolated incident. References to press statements of the Special Rapporteur are also cited.

4. During the period under review, i.e. from 16 December 2003 to 30 November 2004, the Special Rapporteur sent 223 letters* to 77 Governments. The Special Rapporteur also sent 330 urgent appeals* to 72 Governments on behalf of individuals for whom fears had been expressed that they might be at risk of torture and other forms of ill-treatment. Government responses received up to 31 December 2004 have been included. The responses received after that date will be duly reflected in the addendum to the report of the sixty-second session of the Commission.

5. The Special Rapporteur appreciates the timely responses received from Governments to the letters and urgent appeals transmitted. He regrets that many Governments fail to respond, or do so selectively, and that responses to older cases remain outstanding in large part.

6. Owing to restrictions on the length of documents, the Special Rapporteur has been obliged to reduce considerably details of communications sent and received; attention is given

* Includes joint action with other Special Procedures of the Commission on Human Rights.

to information specifically relating to the allegations of torture and other cruel, inhuman or degrading treatment or punishment. As a result, requests from Governments to publish their replies in their totality could not be acceded to.

SUMMARY OF CASES TRANSMITTED AND REPLIES RECEIVED

Afghanistan

7. By letter dated 2 June 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur notified the Government that he had received allegations regarding **Abdullah Shah**, a military commander from Paghman, who was reportedly executed, probably on 19 April 2004. Reports indicate that the proceedings fell short of international fair trial standards. Abdullah Shah was wearing leg irons throughout his trial. He claimed in court that he was forced to sign a confession and that he was tortured in detention, pointing to injuries from his leg irons, as well as injuries to his teeth and hand. Concerns have been expressed that no investigation was undertaken regarding these allegations of torture. The Special Rapporteur on extrajudicial, summary or arbitrary executions observed the trial proceedings of Abdullah Shah during her mission to Afghanistan in October 2002. In her report to the Commission on Human Rights (E/CN.4/2003/3/Add.4) she expressed concerns that the domestic judicial system does not allow for the observance of the safeguards and restrictions relating to the imposition of capital punishment. She urged that the death penalty be suspended and that a moratorium on executions be implemented until such standards can be met. In its resolution 2003/77, the Commission on Human Rights called on the Afghanistan Transitional Administration to "declare a moratorium on the death penalty in the light of procedural and substantive flaws in the Afghan judicial system".

8. By letter dated 30 July 2004, the Government informed that it was the first execution that took place since the establishment of the Interim and Transitional Governments. The judiciary in Afghanistan is meticulous in applying capital punishment. During the trial there were no leg irons on him as seen by people on television, and allegations to the contrary are not based on facts. Allegations that he confessed under torture are false. He did not complain during his trial, nor were there any details brought to the attention of the court by another State organ or third party. He was asked to introduce his defence attorney or submit his defence in writing. He declined and chose to defend himself before the court orally. No formal or informal complaints have been filed on his behalf. The police had the responsibility for carrying out the preliminary investigations and the Attorney's Office for that of subsequent investigations. Penal or disciplinary sanctions were not imposed. If reference is made to the condition of Afghan jails in general, it is an accepted fact that dangerous criminals and prisoners are usually kept under stricter surveillance throughout the world. The police and the Attorney's Office investigated the case sufficiently and the proceedings were then reviewed by three courts. During the trial process there were no errors or shortcomings from the courts in order to justify compensation to the accused's family. There is no evidence that points to the torture of Abdullah Shah, and evidence to the contrary should be furnished by the rapporteurs. The accused was put to death by bullet. According to the legal standards, the death penalty is carried out by the executive power. The execution is designed to use the best possible manner causing immediate demise. An autopsy is not required under Afghan law.

Algeria

9. Par lettre en date du 24 mars 2004, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants :

10. **Hocine Rachedi**, 28 ans, aurait été arrêté à Relizane le 2 octobre 2002 par des membres de la sécurité militaire et amené au Centre territorial de recherche et d'investigation (CTRI) de Relizane où il aurait été détenu pendant deux jours. Lors de sa garde à vue, il aurait été soumis à des décharges électriques.

11. **Mohamed Fodhila**, peintre, aurait été arrêté en décembre 2002 à Bourouba par des policiers en civil. Il aurait été amené au commissariat d'Alger, où il serait resté 12 jours. Durant sa garde à vue, il aurait été soumis à des mauvais traitements qui lui auraient provoqué une luxation de l'épaule et des tuméfactions au visage. Il aurait été transféré d'urgence à l'hôpital militaire d'Aïn Naâdja.

12. **Kamel Driki**, 22 ans, aurait été arrêté le 14 janvier 2003 à Echatt (El Tarf), par des agents de la gendarmerie et amené à la brigade de gendarmerie d'Echatt, où il serait resté deux jours. Durant sa garde à vue, il aurait été passé à tabac et forcé d'absorber de l'urine, et sa tête aurait été enfoncée dans un récipient d'urine et d'excréments. Après avoir été remis en liberté, il aurait reçu des menaces de mort en cas de récidive.

13. **Mohamed Ferroum**, un ouvrier de 48 ans, aurait été arrêté en mars 2003 à Amroussa par des membres de la Sécurité militaire et amené au centre de Ben Aknoun. Durant dix jours, il y aurait été passé à tabac, battu avec des bâtons, fouetté avec un câble électrique, soumis à des décharges électriques sur le sexe et à la méthode dite du « chiffon », qui consisterait à attacher la victime et à lui enfoncer un morceau de tissu dans la bouche, puis à le forcer à avaler une grande quantité d'eau sale, d'urine ou de produit détersif versés à travers ce tissu. Il aurait par la suite été incarcéré à la prison de Serkadji.

14. **Mustapha Zaouchi**, un commerçant de 27 ans, aurait été arrêté en mars 2003 à Birkhadem par des membres de la Sécurité militaire et amené au centre de Ben Aknoun. Durant dix jours, il y aurait été passé à tabac, battu avec des bâtons, fouetté avec un câble électrique, soumis à des décharges électriques sur le sexe et soumis à la méthode dite du chiffon. Il aurait par la suite été incarcéré à la prison de Serkadji.

15. **Mohamed Bouchenak**, un commerçant de 29 ans, aurait été arrêté à Lakhdaria le 17 mars 2003 par des membres de la Sécurité militaire et détenu au centre de Ben Aknoun pendant dix jours. Il y aurait été passé à tabac, battu avec des bâtons, fouetté avec un câble électrique, soumis à des décharges électriques sur le sexe et à la méthode dite du « chiffon ». Il aurait par la suite été incarcéré à la prison de Serkadji.

16. **Abdenacer Mansouri**, un commerçant de 42 ans, aurait été arrêté à Lakhdaria, le 17 mars 2003 par des membres de la Sécurité militaire et détenu au centre de Ben Aknoun pendant dix jours. Il y aurait été passé à tabac, battu avec des bâtons, fouetté avec un câble électrique, soumis à des décharges électriques sur le sexe et à la méthode dite du « chiffon ». Il aurait par la suite été incarcéré à la prison de Serkadji.

17. **Hassan Mehis**, un maçon de 29 ans, aurait été arrêté à Lakhdaria le 17 mars 2003 par des membres de la Sécurité militaire et détenu au centre de Ben Aknoun pendant dix jours. Il y aurait été passé à tabac, battu avec des bâtons, fouetté avec un câble électrique, soumis à des décharges électriques sur le sexe et soumis à la méthode dite du chiffon. Il aurait par la suite été incarcéré à la prison de Serkadji.

18. Par ailleurs, le Rapporteur spécial a reçu des renseignements selon lesquels **les conditions de détention dans la prison de Chlef** se seraient détériorées depuis la nomination en 2003 d'un nouveau directeur et les changements au niveau des gardiens. Une nouvelle tenue vestimentaire aurait été réglementée. Ainsi, les prisonniers n'auraient droit de porter qu'un tricot de peau, un pull et la tenue carcérale, alors que pendant les mois d'hiver les températures dans la région seraient glaciales. Tous les autres vêtements auraient été saisis par l'administration. Par ailleurs, les cellules et la plupart des salles seraient dépourvues de chauffage. Ces restrictions vestimentaires imposées par la nouvelle administration et les basses températures exposeraient les détenus à des maladies telles que la pneumonie, la bronchite ou même la tuberculose pulmonaire. Le Rapporteur spécial a également reçu des renseignements selon lesquels une note administrative devant entrer en vigueur le 1er janvier 2004 stipulerait que le poids de chaque couffin ne devrait pas excéder cinq kilogrammes et que tous les produits et denrées existant dans le magasin de la prison ne pouvaient être ramenés par les familles sous peine de saisie. Cette mesure pourrait constituer une manière d'obliger les prisonniers à s'approvisionner au magasin de l'établissement pénitencier, alors que de nombreux détenus seraient issus de familles sans moyens. Le couffin hebdomadaire serait leur seule source d'approvisionnement. Devant ces conditions de détention dégradantes, des détenus de Chlef auraient entamé une grève de la faim le 27 décembre 2003 et auraient adressé une lettre au Procureur de la République.

19. Le Rapporteur spécial a reçu des renseignements supplémentaires sur le cas de **Abdelkrim Khider** et **Fateh Brahim Ladada**. Par une lettre datée du 8 juillet 2002, le Gouvernement avait répondu à ces appels (E/CN.4/2003/68/Add.1, par. 68 à 70). D'après les nouveaux renseignements reçus, lors de leur détention au centre de Châteauneuf, ces deux hommes auraient été passés à tabac, ils auraient été forcés à ingurgiter de l'eau des toilettes et soumis à la méthode dite du « chiffon ».

20. Par une lettre datée du 23 septembre 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels un rassemblement pacifique des familles de disparus de Constantine ayant eu lieu le 20 septembre 2004 devant le siège provisoire du Comité ad hoc sur les disparus à Constantine aurait été dispersé dans la violence par les forces de l'ordre qui auraient également procédé à des arrestations.

21. D'après les informations reçues, **M. Hmamlia**, qui tentait de venir en aide aux personnes malmenées par la police, aurait été arrêté et conduit au poste de police avant d'être libéré quelques heures plus tard. **Mme Farida Oughlissi**, mère de disparu, aurait été frappée. Son corps serait marqué par de nombreuses ecchymoses. Mme **Louisa Saker**, secrétaire générale de l'Association des familles de disparus de Constantine, aurait, quant à elle, été

interpellée et emmenée par des éléments de la Brigade mobile de la police judiciaire (BMPJ) et détenue à la caserne de la police judiciaire de la zone Palma à Constantine. Ni les membres de sa famille ni son avocat n'auraient été autorisés à lui rendre visite jusqu'à sa libération dans la soirée. Durant sa détention, Mme Louisa Saker n'aurait pas été informée des motifs de son arrestation et aurait fait l'objet d'actes d'intimidation. Au moyen d'un couteau et d'une bombe lacrymogène, celle-ci aurait été menacée par des agents des services des Renseignements généraux d'être inculpée pour troubles à l'ordre public avant d'être relâchée dans la soirée sans qu'aucune charge n'ait été retenue contre elle. Suite à sa libération, un médecin aurait pu constater les traces sur son corps des violences subies lors du dispersement du rassemblement. Il a également été rapporté que Mme Louisa Saker avait déjà fait l'objet d'actes d'intimidation le 5 novembre 2003 de la part de deux inspecteurs des services des Renseignements généraux.

22. L'arrestation et la détention de Mme Saker et de M. Hmamlia ainsi que les méthodes utilisées pour disperser une manifestation pacifique sont d'autant plus préoccupantes que la police aurait déjà arrêté des membres de familles de disparus et fait usage de la violence à leur encontre lors de rassemblements à Constantine le 8 novembre 2001, à Alger le 5 novembre 2002, et à Oran le 9 juillet 2003. S'agissant de Mme Saker, des craintes ont été exprimées que celle-ci n'ait été visée en particulier, en raison de ses nombreuses prises de position critiques quant à la gestion du dossier des disparus par les autorités algériennes.

Appels urgents

23. Le 24 mai 2004, le Rapporteur spécial 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, et la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, concernant la situation de dizaines de personnes actuellement détenues dans les casernes de la gendarmerie de Tkout et à la prison d'Arris pour avoir participé à des manifestations de protestation contre l'exécution par un membre des Groupes de légitime défense (GLD), un groupe paramilitaire de Taghit, d'un jeune homme âgé de 19 ans. D'après les informations reçues, **Chouaib Argabi** aurait été mortellement blessé par balle le 13 mai 2004, dans la localité de Taghit (wilaya de Batna), par un membre des GLD qui aurait tiré sans sommation sur le jeune homme, l'ayant pris pour un terroriste. Il nous a été également rapporté que le compagnon de M. Argabi aurait été enlevé et séquestré dans le casernement des GLD. Le lendemain, suite aux protestations pacifiques des citoyens de Taghit et de Tkout (localité voisine), exigeant de faire toute la lumière sur cet événement, le gouvernement aurait dépêché des renforts de gendarmerie et de l'armée. Les gendarmes et les militaires, semble-t-il fortement armés, seraient intervenus en utilisant une force excessive contre les civils non armés. Plusieurs dizaines de personnes auraient été arrêtées et incarcérées dans les casernes de la gendarmerie de Tkout et à la prison d'Arris. Selon les informations reçues, les membres du Mouvement citoyen de la région des Aurès seraient particulièrement visés par cette violente vague de répression, et feraient l'objet d'un véritable harcèlement.

24. Par lettre datée du 16 juillet 2004, le Gouvernement a indiqué que dans la nuit du 13 mai 2004, des agents de la garde communale de Taghit ont tiré après avoir fait les sommations d'usage sur deux hommes qui tentaient de récupérer des produits alimentaires volés trois jours auparavant dans un magasin et qu'ils avaient cachés dans l'oued. L'un d'eux, Chouaib Argabi

a été mortellement blessé. Une instruction judiciaire a été ouverte par le procureur de la République d'Arris qui a saisi le juge d'instruction du tribunal. Celui-ci a entendu les mis en cause, les a inculpés du chef d'homicide et ordonné leur détention provisoire. Une autopsie de la victime a été ordonnée. Ainsi donc, selon le Gouvernement, il n'y pas d'impunité dans cette affaire puisqu'elle est pendante devant la justice et que les auteurs présumés ont été poursuivis et placés sous mandat de dépôt.

25. Le 7 juin 2004, le Rapporteur spécial 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 la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, sur la situation des personnes qui auraient été arrêtées pour avoir manifesté dans la région des Aurès et pour lesquelles les Rapporteurs spéciaux sur la promotion et la protection du droit à la liberté d'opinion et d'expression, la torture, les exécutions extrajudiciaires, sommaires ou arbitraires ainsi que le vice-président du Groupe de travail sur la détention arbitraire avaient envoyé un appel urgent le 24 mai 2004. Selon les informations reçues, les 24 et 31 mai 2004, 29 des jeunes hommes arrêtés auraient comparu devant le tribunal d'Arris et auraient été condamnés, pour attroupements, incitation à attroupement, diffusion de tracts et atteinte aux biens d'autrui, aux peines d'emprisonnement suivantes : **Meziani Fouzi** (huit mois), **Beziane Abdelouahab** (six mois), **Abassi Rachid** (six mois), **Daoudi Essaid** (six mois), **Aichi Hessane** (huit mois), **Yeza Abdeslam** (huit mois), **Titaouine Salim** (huit mois), **Lounissi Abdelkrim** (six mois), **Yakoub Abderrezak** (huit mois), **Zerdoumi Abdelmadjid** (six mois), **Chatri Khaled** (trois mois), **Saidi Rachid** (six mois), **Berbachi Ali** (trois mois), **Kerbai Samir** (trois mois), **Kerbai Mohamed Tayeb** (trois mois), **Meziani Karim** (trois mois), **Gharik Ahcene** (trois mois), **Bezala Essaid** (trois mois), **Yeza Salim** (huit mois), **Megharmi Djamel** (1 an), **Boussetta Abdenacer** (huit mois), **Djouara Djamel** (huit mois), **Yeza Mohamed** (trois mois), **Khellafi Toufik** (trois mois), **Agali Abderrezak** (trois mois), **Titaouine Ali** (six mois), **Bezala Ali** (six mois), **Lounissi Tahar** (trois mois), **Zerdoumi Amar** (six mois). Les jeunes gens arrêtés soit au cours des manifestations, soit à leur domicile auraient été conduits dans des véhicules militaires à l'ancienne prison coloniale, lieu de cantonnement de la gendarmerie de Tkout où les détenus auraient été déshabillés et alignés avant d'être soumis à des agressions sexuelles, insultes et coups de matraques. Certains auraient eu leurs membres brisés et le visage balafré à l'issue des coups que leur auraient portés les gendarmes. Des menaces de viol sur les sœurs et mères des détenus auraient également été proférées. En raison de la couverture médiatique des événements, et notamment des témoignages dans la presse relatant les tortures subies, une enquête aurait été conduite le 26 mai par des fonctionnaires du Ministère de la justice dépendant de la cour de Batna. Ceux-ci auraient conclu à l'absence de torture en dépit du fait que neuf des jeunes gens arrêtés auraient réitéré les déclarations faites à la presse. En outre, des craintes ont été exprimées que ces enquêtes n'aient pas été conduites de manière indépendante et impartiale. Dans une lettre ouverte adressée au chef de l'Etat algérien, le procureur adjoint de la cour de Batna (cour dont dépend Tkout), aurait dénoncé les « pressions, intimidations, menaces et trafic d'influence » qu'il aurait subis dans l'exercice de ses fonctions et que subiraient tous les magistrats « intègres ». L'auteur de la lettre mettrait directement en cause un officier supérieur de l'armée. Plusieurs dizaines de membres du mouvement citoyen de Tkout qui auraient fui pour se réfugier dans les montagnes environnantes seraient toujours contraints de vivre dans la clandestinité en raison de la

surveillance dont leurs domiciles feraient l'objet. Un important dispositif policier serait toujours en place dans le village de Tkout et les parents et membres des familles de ceux ayant fui feraient quotidiennement l'objet de menaces et d'intimidation, y compris des menaces de viol sur les femmes. Des craintes ont été exprimées que cette répression, y compris les condamnations des jeunes gens ayant participé aux manifestations, ne vise à réprimer les mouvements citoyens luttant pour le respect de leurs droits, notamment après que le mouvement citoyen de Tkout eut présenté en mars dernier une plate-forme de revendications socioéconomiques, culturelles et linguistiques aux autorités locales et régionales.

26. Par lettre datée 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 des prévenus présentaient une quelconque trace de violence sur leurs 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 lui-même. Cette enquête n'a pas conclu à la véracité des allégations de mauvais traitements.

Suite donnée aux plaintes signalées dans des communications précédentes

27. Par lettre datée du 16 février 2004, le Gouvernement a transmis des informations complémentaires s'agissant de **Malek Arab**, de **Mourad Kharchouche** et de **Mohamed Harim** (E/CN.4/2003/68/Add.1, par. 23 à 59). Le Gouvernement a indiqué qu'ils avaient été arrêtés pour appartenance à une organisation terroriste. **Mokrane Saadoune** a, quant à lui, été arrêté pour apologie de crimes terroristes. Le Gouvernement a par ailleurs informé des résultats des procédures conduites à leur encontre et fait savoir qu'aucun des intéressés n'avait fait état des mauvais traitements subis lors de leur présentation devant la justice. Concernant **Kamel Barar**, **Nawal Zemzoum** et **Chérif Adda**, il est indiqué qu'ils n'ont fait l'objet ni d'une interpellation des services de police judiciaire, ni d'une présentation devant une juridiction quelconque.

Angola

28. By letter dated 8 September 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

29. **André Quibindo**, a service station employee, city of Cabinda. On the morning of 26 February 2003, the provincial prosecutor (whose name is known to the Special Rapporteur) arrived to fill up his car with petrol. The bodyguard and the prosecutor's two nephews beat André Quibindo. One of his colleagues tried to intervene but was also beaten. André Quibindo was taken to the Municipal Police Command and placed in an isolation cell for five days.

30. **Januário Dembe**, age 55, an administrator of Bembe Mbote, Caio-Contene village, Necuto commune. On 16 March 2003 as he was driving to a sawmill, he was stopped by a soldier of the Angolan Armed Forces (FAA) who demanded a ride in the opposite direction. When Januario Dembe refused, the soldier ordered him and his two children to get out of the

vehicle. The soldier fired at Januario Dembe, hitting him in the ankle and damaging his vehicle. The soldier also fired at his children but they escaped unhurt.

31. **Filipe Dembe Jesus**, age 23, and **Samuel Cando**, age 43, both teachers, from Buco-Zau. On 1 April 2003, on their way to work in the village of Muanza, they were stopped by "red beret" FAA Special Forces, in the Sinde-Muanza area. The commandos accused the men of belonging to the Front of Liberation of the State of Cabinda (FLEC) and beat them severely.

32. **José Vindo**, also known as Tudo Passa, Muanza, Buco-Zau. On 3 April 2003, FAA soldiers accused him of belonging to FLEC and beat him in front of his family.

33. **Corporal Frederico Canganjo**, Kissamano garrison. On 14 April 2003 at approximately 5 p.m., he was beaten with a rifle butt by a lieutenant colonel of the 704th Battalion (whose name is known to the Special Rapporteur). After beating him, the lieutenant colonel tied Corporal Frederico Canganjo to his vehicle and dragged him across the asphalt to the barracks, several metres away. He was reportedly sent to the Military Hospital in Cabinda for treatment for his injuries.

34. **Corporal Lázaro Canhongo**, age 24, Benguela province. On 3 May 2003, he tried to desert and retum home but was captured by military police in Buco-Zau, and returned to Miconje commune. As punishment, he was forced to weed large tracts of land, and was shot in the calf by a colonel (whose name is known to the Special Rapporteur).

35. **Carlos Luís Dunge**, age 31, goods wholeseller, Necuto village. On 14 May 2003, he was beaten by six FAA soldiers stationed in the village. The commanding officer (whose name is known to the Special Rapporteur), ordered the soldiers to confiscate Carlos Luis Dunge's goods, claiming that they were used to feed members of FLEC. The soldiers beat him, tied him and his teenage assistant up and took them to the Necuto Battalion Command. They were put in a hole covered by tarpaulin and kept there for 15 days, and were only taken out briefly three times for interrogation.

36. **Lando Muaca**, age 36, and **Josefate Luemba**, age 67, Conde Lintene village. On 22 May 2003 at 5.20 p.m., while they were inspecting palm trees on Lando Muaca's land, they were stopped by a group of FAA soldiers for violating the curfew that started at 4 p.m.. The soldiers beat the farmers, undressed them, forced Lando Muaca to tie up Josefate Luemba, and sexually assaulted Josefate Luemba. The soldiers released him after four hours but brought Lando Muanca to the Necuto Battalion for four days of forced labour: carrying water, washing uniforms, and cooking.

37. **Hilário Kinahimbo**, age 33, a driver of the administrator of Belize. On 16 June 2003, he was driving a white Ford vehicle, from the municipality of Buco-Zau to Belize, when in the village of Mbombo-Pene, three soldiers of the special unit of the Belize 2nd Battalion stopped him to get a for a ride. He refused saying that it was dangerous to mix civilians and soldiers in the same vehicle. The soldiers then pulled Hilário Kinahimbo out of the vehicle and beat him with their rifle butts. He required 12 stitches for a wound on his head.

38. **João Kumbo**, age 24, Bembica. On 4 July 2003, he was detained by soldiers from the 708th Battalion, and taken to the base in Necuto. He was questioned about the whereabouts of a relative wanted by the FAA, and beaten unconscious and held for 24 hours in a pit.

39. **Nicolau Nkula Macumbo**, age 40, and **Artur Kinangi**, from Iona village, and nationals of the Democratic Republic of the Congo. On 16 July 2003, their bodies were found close to Rio Luali, Belize,, bearing signs of having been beaten, three days after they were detained at the Iona Commando base.

40. **Joaquim Mibinda**, **José Ngoma**, age 77, and **Tomás Macaia**, age 72, from Micuma II village. On 24 July 2003, they were detained by FAA soldiers close to the village and were forced to walk for two days with the patrol in search of FLEC hideouts. The soldiers intimidated the men by placing them before a firing squad and interrogating them about the locations of FLEC hiding places. The men were released in the village of Pangala, Ganda-Cango, Belize, after local authorities intervened and convinced the soldiers to let the men go.

41. **João Paulo Mavungo**, age 75, Mbundo village, Belize. On 27 July 2003 around midnight, he was thrown to the ground and shot in the leg by an FAA soldier, who was allegedly stealing chickens. The Mbundo coordinator took him to the hospital shortly after the incident.

42. **Luís Capita**, age 60, Chivata I, Caio-Contene. On 4 August 2003, he was tied up and beaten by soldiers from the 708th Battalion, based in Necuto commune. Luis Capita was suspected by FAA of being involved in a FLEC attack in the village earlier in the day. He was dragged from his home and kicked and hit with rifle butts during the 8 km joumey to the military base. At the base, soldiers were ordered to tie him up in the "rabbit position" (with the elbows and ankles bound together behind the back, while the knees are pulled up to the chest). He was beaten and held in this position for five hours and released.

43. **Manuel Gomes**, age 22, and **Alfredo Buza**, age 20, Caio-Poba. On 20 August 2003, when they went to the Caio-Poba military base to collect items seized by FAA soldiers, they were suspected of being members of FLEC. They were tied up and beaten and then sent home.

44. **Berta Umbelina Estanislau**, age 23, a primary school teacher, and school pupils, Bata-Sosso. On 23 August 2003 at 7.30 a.m., during a military operation in the village, the teacher and pupils tried to leave the area upon hearing gunfire. FAA soldiers accused them of complicity in a FLEC attack, forced the teachers and pupils to undress and lie down, and then beat them.

45. **Alberto Nhimi**, age 31, Necuto, and **José Kumbo**, Bembica. On 24 August 2003, following a FLEC attack, soldiers stationed in the village of Cata Chivava began rounding people up. In Caio-Contene village, Alberto Nhimi was detained, accused of being a FLEC spy, beaten, and taken to the military base for interrogation by a lieutenant colonel (whose name is known to the Special Rapporteur). He was put in a pit and kept there for five days, and let out only twice to drink water. During his captivity, he was beaten and stabbed with a

bayonet and received no medical treatment. José Kumbo was beaten, and tied up in the “rabbit position". He was put in a pit and remained tied up like that for several days.

46. **Alberto Bungo**, age 36, Conde-Lintene village, Necuto. On 28 August 2003, he was detained by FAA soldiers from the BIQ-708 Battalion after raiding the village, following an attack by FLEC. He was interrogated and threatened by a junior officer with a bayonet in an effort to make him confess to participating in the FLEC attack. He was stabbed in the foot and the back, treated by medical personnel and released three days later.

47. **Afonso Vidal Paca**, age 41, Caio-Lintene, Buco-Zau. On 28 August 2003, he was tied up and beaten with a stick and a rifle butt by FAA soldiers. They accused him of being a FLEC collaborator and beat him to extract a confession.

48. **Paulo Macuaeo**, age 19, Binga-Pequeno, Buco-Zau. On 30 August 2003 at 2.30 p.m., as he was bathing in the river Luali, three soldiers from the Alzira da Fonseca unit arrived, led by a sergeant (whose name is known to the Special Rapporteur). The ergeant pointed his gun at Paulo Macuaeo and threatened to kill him. Another soldier broke his hunting rifle by beating it against his naked body. He was also stabbed. First aid was administered for his injuries.

49. **João Paulo Paiado**, age 34, his father **Paulo**, age 58, and brother **Lourenço Mambuco Paulo**, age 23, from Pove village, and **Ngoma Gabriel**, a farm-worker and national of the Democratic Republic of the Congo. On 2 September 2003 at dawn, a group of about 20 FAA soldiers from Zala-Ngó entered João Paulo Paiado’s home, dragged him outside the house and beat him in front of his family. His father and brother were beaten when they attempted to intervene. Later, the soldiers took him in a truck to a field, where they accused him of having contacts with FLEC. A grave was dug to bury him, and he was tied up with wire for two days, and released. Ngoma Gabriel, who worked on João Paulo Paiado’s farm, suffered five bayonet wounds from a corporal (whose name is known to the Special Rapporteur), because he was suspected to be a FLEC collaborator.

50. **André Baza**, age 38, Buco-Zau. On 3 September 2003, he was questioned about his hunting rifle, and beaten by police from the municipal command of Buco-Zau. He was then transferred to the village, where a sergeant (whose name is known to the Special Rapporteur) beat him, tied him up and began firing his gun into the ground near him. A priest secured André Baza’s release.

51. **Paulo Bilundo**, age 18, 6th grade pupil, Chivula. On 11 September 2003, around 9 a.m., he was stopped by FAA soldiers on the road to the village of Necuto. The soldiers accused him of being on a mission for FLEC, and forced him to go with them to a field, where chilli peppers were being grown. He was forced to eat peppers, and was threatened with death if he stopped. When the peppers began to affect his breathing, he was given a green banana to try and neutralise the effect, and left to recover in a pit.

52. **João Duda**, age 30, **Buange Dunge**, age23, Panga-Mongo village, and **Duda**, a national of the Democratic Republic of the Congo. On the night of 28 September 2003, FAA soldiers carried out an operation in the village, and detained and beat the men, accusing them of supporting FLEC.

53. **Alfredo Mbuemba**, **Alexandre Tati**, his daughter **MT**, age 2, **Pedro Antonio**, age 8, **Nataniel Gimbi**, age 50, from Tandu-Macuco village, Necuto commune, and **Kembo Lelo**, a national of the Democratic Republic of the Congo. On 2 October 2003, an unknown number of FAA soldiers surrounded the village and beat Aflredo Mbuemba, Alexandre Tati and Kembo Lelo and took them away to an unknown location. The soldiers grabbed Alexandre Tati's daughter and threw her to the floor of her home, where they kicked and slapped her. Pedro Antonio was also thrown to the ground by a soldier. Nataniel Gimbi was dragged out of his house and beaten.

54. **José Massiala Ngoma**, age 23, **André Simão Luemba**, age 27, and **Bemado António Yambi**, age 30, Panga-Mongo, Necuto commune. On 3 October 2003 at around 1 a.m., soldiers surrounded the village and went into their homes. They were beaten with rifle butts in the presence of their families, and taken to the 708th Battalion base in Necuto.

55. **Januário Ngola**, age 49, the deputy coordinator of the village and member of the Popular da Libertação de Angola, his wife, **Elize Mavungo**, age 45, and his sister **Virgínia Bumba**, Tandu-Bulazi village. On 7 October 2003, FAA soldiers travelling in two trucks arrived before dawn in village and entered Januario Ngola's house. He was beaten and kicked in the area of an existing intestinal hernia. His wife and sister were also beaten. The soldiers seized agricultural tools and money, and threw the family out of the house. Januario Ngola was taken to an unknown location.

56. **Ivo Cubola**, age 25, his mother **Charlote Macosso**, her daughter, **M. M.**, age 7, **Antonio Gimbi**, 60, and **Antonio Camilo**, age 50, Tandu-Bulazi village. On 7 October 2003, soldiers entered Charlote Macosso's house, held her and her daughter and slapped them. Ivo Cubola was thrown to the floor, tied up, accused of being the son of a high-ranking officer in FLEC and taken away to the 708th Battalion's base. Antonio Gimbi and Antonio Camilo were beaten and also taken away. Ivo Cubola was tied up in the "rabbit position" and held in a pit for 12 days. There are reportedly three types of pits at the base, for three categories of prisoners: i.e. "least criminal" suspects, those accused of collaborating or sympathizing with FLEC; "criminal" suspects, former FLEC soldiers who live in villages without notifying the authorities and are suspected of providing logistical support to FLEC; and "highly criminal" suspects, those captured in combat as well as known activists and other individuals involved in FLEC. The depth of the hole and the treatment meted out to the captives vary according to their status. Ivo Cubola, who was in the "least criminal" group, was subject to three sessions of interrogations before he was released.

57. **Sofia Landu**, age 30, **Albertina Futi, Maria Mbumba**, **Inês Landu, Magarida Baza**, **J. P.**, age 8, **Jerónimo Conde, Adriano Pedro Suami**, his wife **Maria Landu**, age 22, and **Catarina Nvulu**, Tandu-Macuco village, Necuto commune, Buco-Zau. On 7 October 2003, FAA soldiers entered the village and attacked the inhabitants in their homes. They were thrown to the ground, kicked and beaten with rifle butts.

58. By letter dated 13 September 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he received allegations concerning:

59. **Maria Veronica**, Terra Nova, Necuto commune. On 2 January 2003, she was raped by soldiers of the 115th Battalion of the Angolan Armed Forces (FAA). She was found lying naked on the floor in blood-soaked sheets. She died the following week.

60. **M. F. L. K.**, age 16, **S. K.**, age 13, and **J. K. M.**, age 12, Muanza village. On 20 February 2003 at 3 p.m., the three girls were retuming from Buco-Zau when they were questioned by four FAA soldiers 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.

61. **Joana Macaia**, 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 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.

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

63. **Carolina Mataia**, age 29, **Marta Tchelika**, age 41, **Essingo Goma**, age 36, **Paula Mambuco**, age 40, **Valéria Maia**, age 33, **Ariete Jorge**, **Mana Quitexe**, and **Maria Pólo**, age 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 check-point. One of the inspectors dragged Maria Polo 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.

64. **A. M. C. B.**, age 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 knocked her unconscious.

65. **T. S.**, age 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.

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

67. **C. P.**, age 16, Necuto commune. On 23 June 2003, as she was leaving the Catholic Mission Parish School, she was stopped by four soldiers of the 115th Battalion, who accused her of being related to a FLEC member. One soldier pointed 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 Catarina Pemba recovered, the soldiers had raped her, and left her naked and bleeding. She still experiences pain and finds blood in her urine.

68. **Alice Nzuzi**, age 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.

69. **C. C.**, age 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.

70. **Maria Pedro**, age 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.

71. By letter dated 13 September 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he received allegations concerning:

72. **João Félix Mavungo**, age 36, Dinge village. On 8 March 2003 at 5 p.m., four FAA soldiers accused him of violating restrictions concerning work on the land, beat him in front of his wife, and took him away. The military returned his body to his family, claiming that he died from an illness; however, the body reportedly bore evidence of beatings.

73. **Vicente Ngoma**, Mongo-Conde, Belize, and **Filipe Maiúlo**, Pângala. On 3 April 2003, while on their way to the village of Sindi, they were picked up by FAA soldiers and beaten. Vicente Ngoma was also stabbed and died of his injuries.

74. **Paulo Mambo João**, age 40, a coordinator of Micuma I village. On 16 July 2003, as he was returning from hunting, he was detained by FAA soldiers. He was tied to a tree, interrogated, and at approximately 5.30 a.m., killed by two bullets in the chest.

75. **Nicolau Nkula Macumbo**, age 40, and **Artur Kinangi**, Iona village, and nationals of the Democratic Republic of the Congo. On 16 July 2003, their bodies were found with signs of being beaten, close to the Luali river, Belize, three days after they were detained at the Iona Commando base.

Argentina

76. Por carta de fecha 27 de agosto de 2004, el Relator Especial, juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, notificó al Gobierno que recibió información en relación con los casos siguientes:

77. Varias personas claramente identificadas como periodistas de televisión habrían sido amenazadas y agredidas mientras informaban sobre las manifestaciones organizadas por empleados del gobierno provincial entre el 27 y el 30 de abril de 2002 en la provincia de San Juan. **Carlos Chirino**, camarógrafo para la emisora Canal 8, de San Juan, habría resultado herido en la pierna por una bala de goma y habría sido pisoteado por miembros de la policía provincial. Una bomba de gas lacrimógeno habría caído cerca de la unidad móvil de FM

Radio La Voz, identificada claramente como tal. La policía también habría disparado balas de goma contra **Atahualpa Acosta** y **Marcos Urisa**, director y fotógrafo respectivamente del *Diario de Cuyo*. Ambos eran claramente identificables como periodistas. **Alejandra Ruiz**, de TV 2 Canal Proimagen, **Doly García**, de FM Santa Lucía, y **Juan Pereyra**, de LV5 Radio Sarmiento, también habrían resultado heridos por balas de goma.

78. **Marco Díaz Muñoz**, corresponsal de América TV en la provincia de Salta, habría sido atacado por miembros del ejército y de la policía provincial el 20 de junio de 2002, cuando filmaba la expulsión y represión de grupos de desempleados que protestaban delante del ayuntamiento de la capital, Salta. Un soldado le habría golpeado en el estómago y la boca con una porra antidisturbios. Los militares también le habrían dañado la cámara para impedir que siguiera filmando. Al día siguiente, el periodista habría presentado una denuncia por "apremios ilegales" en la Fiscalía número 4 de Salta.

79. **Carla Minetti**, periodista para Cablevisión TV Rosario, Provincia de Santa Fe, habría sido alcanzada en el cuello por una bala de goma disparada por la policía el 14 de marzo de 2002 mientras informaba sobre el desalojo de unas viviendas ocupadas ilegalmente en Rosario.

80. Varios manifestantes y periodistas habrían resultado heridos debido al uso supuestamente excesivo de la fuerza por parte de la policía el 26 de octubre de 2002, durante una protesta de las Asambleas Populares delante de la comisaría 6 de policía de Buenos Aires. La manifestación tenía como motivo la detención de miembros de la organización ecologista Greenpeace y de las Asambleas Populares que se habían manifestado previamente delante del edificio del Congreso de la Nación y que, tras ser detenidos, habían sido llevados a la seccional 6. La policía habría utilizado gas lacrimógeno y balas de goma contra quienes protestaban por estas detenciones. **Alberto Recanatini Méndez** y **Tomás Eliaschev**, periodistas de Indymedia Argentina, habrían sido heridos por balas de goma disparadas por agentes de la Infantería de la Policía Federal mientras estaban cubriendo estas manifestaciones. Alberto Recanatini Méndez habría sido alcanzado en la cabeza, el codo y la entrepierna. Tomás Eliaschev habría sido alcanzado seis veces en las piernas. Posteriormente habrían presentado una denuncia judicial en relación con este suceso ante la Fiscalía número 2 de Buenos Aires. En el juzgado de instrucción número 8 se habría iniciado una investigación judicial calificada como investigación por "lesiones y coacción". Sin embargo, se alega que no se han realizado progresos en dicha investigación. Durante la misma manifestación **Luis Gras**, periodista del diario *La Tapa*, también habría sido golpeado por la policía y detenido junto con varios manifestantes. Antes de ponerlos a todos ellos en libertad, ese mismo día, la policía los habría obligado a firmar varios documentos, sin entregarles una copia. Entre los papeles que firmaron habría una acusación de "resistencia a la autoridad y daños a la propiedad privada".

81. **Julián Sequeiro, Maximiliano García Solla** y **Michael Carcachi**, camarógrafos del programa *Puntodoc/2* de América TV, habrían sido brutalmente golpeados por miembros de la Policía Federal Argentina el 25 de febrero de 2003, mientras informaban sobre el desalojo judicial de 100 familias en el barrio de San Telmo, en Buenos Aires. Se alega que durante el desalojo, la policía utilizó gas lacrimógeno y balas de goma. Julián Sequeiro habría sido golpeado en la cara por unos policías a pesar de que había mostrado su acreditación de prensa y se había identificado claramente como periodista. Julián Sequeiro se habría caído al

suelo debido al golpe recibido. Tumbado en el suelo, los policías habrían seguido golpeándolo y dándole patadas. Le habrían roto la nariz y causado fisuras en dos costillas. Habría sido llevado detenido a la seccional 14 y, más tarde, trasladado al hospital de Argerich, antes de ser puesto en libertad. Maximiliano García Solla habría recibido una patada en los testículos por parte de un policía vestido de civil, quien también le habría dado un puñetazo. Seguidamente habría sido detenido. Antes de ser agredido Maximiliano García Solla se habría identificado claramente como periodista. Michael Carcachi habría sido golpeado por la policía mientras informaba sobre la expulsión. Habría estado filmando a un joven manifestante que yacía sangrando en el suelo.

82. **Norberto Ortiz**, periodista de televisión de *Crónica TV*, Buenos Aires, habría sido herido por una bala de goma disparada por miembros de la Guardia de Infantería de la Policía Federal. Los hechos habrían ocurrido el 26 de febrero de 2003, mientras se encontraba enfrente de los Tribunales Federales informando sobre el juicio de un grupo acusado de incitar a la violencia durante unas manifestaciones celebradas en 1994 y 1995.

83. **Christian Frolich**, reportero fotográfico del periódico de Buenos Aires *Crónica*, habría sido golpeado por agentes de la Policía Federal el 6 de marzo de 2003, mientras informaba sobre la detención de vendedores callejeros en el distrito Once de la ciudad de Buenos Aires. Intentaba fotografiar la violencia empleada por la policía.

84. **Edgardo Esteban**, periodista de televisión de la cadena estadounidense NBC, habría sido obligado por la policía a interrumpir su filmación el 21 de abril de 2003. De acuerdo con la información recibida, estaba filmando el desalojo de trabajadores de la fábrica textil Confecciones Brukman en la ciudad de Buenos Aires y la detención de manifestantes. Unos agentes de la Policía Federal que estaban disolviendo la manifestación lo habrían obligado a arrodillarse junto con otras personas. Durante el mismo incidente, **Martín Ciccioli**, presentador del programa *Informe Central* del canal de televisión América, habría sido alcanzado por siete disparos de balas de goma. Una de las balas le habría dado a dos centímetros del ojo izquierdo. Otros trabajadores de los medios de comunicación también habrían sido golpeados durante el incidente. Se alega que para dispersar esta manifestación, las fuerzas de seguridad utilizaron gas lacrimógeno, porras y balas de goma y causaron lesiones a 30 personas. Dos parlamentarios habrían denunciado que la policía había utilizado balas de plomo.

85. **Alejandro Goldín**, periodista fotográfico para Indymedia, habría sido golpeado por miembros de la Policía Federal el 9 de junio de 2003 mientras informaba sobre una manifestación celebrada ante la fábrica textil Confecciones Brukman, en la ciudad de Buenos Aires. También habría sido alcanzado por el cañón de un lanzador de bombas de gas lacrimógeno, a pesar de que mostró su acreditación de prensa. Además, varios policías le habrían propinado patadas y puñetazos mientras yacía en el suelo. Le habrían causado lesiones en la pierna y la cabeza.

86. **Eduardo Olivares**, periodista para la emisora Radio Dimensión, Provincia de San Luis, habría sido arrojado al suelo a golpes por unos agentes del COAR, el escuadrón antidisturbios de la policía provincial, el 4 de marzo de 2004, mientras informaba sobre una manifestación de empleados municipales. Los agentes también le habrían dado patadas. Se

alega igualmente que la policía fue abiertamente hostil con los periodistas que informaban sobre el acto y disparó balas de goma contra ellos.

87. Por carta de fecha de 30 de agosto de 2004, el Relator Especial, juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Representante Especial del Secretario General para los defensores de los derechos humanos notificó al Gobierno que recibió información en relación con **Juan Eduardo Riquel**, secretario de la Asociación de Trabajadores del Estado (ATE), de la localidad de Castelli, provincia de Chaco. Habría sido detenido el 4 de julio de 2004 por personal de la comisaría de Castelli, después de asistir a una fiesta popular donde varios miembros de la comunidad Toba habrían sido golpeados por agentes policiales. En el momento de su detención, habría sido golpeado. En la comisaría también habría sido objeto de actos de violencia y malos tratos. Tras manifestar dificultades para respirar, habría sido conducido al Sanatorio Norte de la localidad. Tras examinar al detenido y escuchado su relato, los médicos se habrían negado a entregarlo de nuevo a la policía. Se habría presentado una denuncia a la Fiscalía de Investigaciones. Seguidamente se habría iniciado un proceso en contra del denunciante por "atentado y resistencia a la autoridad". Además Juan Eduardo Riquel habría recibido amenazas por parte de algunos policías por haber denunciado el caso.

88. Por carta de fecha 15 de octubre de 2004 el Gobierno informó de que de acuerdo a la información facilitada por la Comisión Interministerial de Derechos Humanos puede asegurar que un representante del Ministerio Público había tomado intervención en el hecho personándose en la clínica privada donde se encontraba internado el afectado, tomándole declaración testimonial y disponiendo la custodia del mismo. También le consta al Gobierno que la mencionada Comisión sugirió la intervención del Órgano de Control Institucional de la Policía y que la causa penal iniciada por el Fiscal de turno se encuentra en plena fase de investigación sobre el proceder de los funcionarios policiales en el hecho que damnificaría a Eduardo Riquel.

Seguimiento de comunicaciones transmitidas previamente

89. Por carta de fecha 19 de marzo de 2004, el Gobierno facilitó información con relación al caso de la Dra. **María Dolores Gómez** y el Dr. **Fernando Maroto** (E/CN.4/2005/56/Add.1, párr. 69) y detalló las medidas tomadas para preservar su seguridad. El Gobierno destaca que a partir del 7 de diciembre de 2003 le fue asignada a la Dra. Gómez la custodia de la Policía Federal Argentina, en reemplazo de la protección previamente otorgada por la Gendarmería. La Dra. Gómez estaría escoltada permanentemente desde su domicilio y la sede de la Defensoría. Esta custodia se realizaría sin perjuicio de la ya existente en su domicilio particular. En relación con el seguimiento de las denuncias por presuntas amenazas y hechos intimidatorios, el Gobierno indicó que se impulsó una investigación judicial y que ésta seguía su curso en los tribunales nacionales.

90. Por carta de fecha 15 de noviembre de 2004 el Gobierno facilitó información sobre los siguentes casos.

91. **F. B.** (E/CN.4/2004/56/Add 1, párr. 61). El Gobierno informó de que se inició el trámite del expediente administrativo ante la Auditoría de Asuntos Internos dependiente del Ministerio de Seguridad de la provincia de Buenos Aires. Éste se encontraría en su fase

investigativa y habría tomado declaración a los imputados, quienes se encuentran en la actualidad en situación de disponibilidad preventiva. En lo que respecta a la investigación penal por delito de homicidio, amenazas y abuso de armas, ésta cuenta con la intervención de la Unidad Funcional de Instrucción N.° 7 del departamento Judicial de San Isidro, e imputa a las personas antes mencionadas.

92. **Javier Villanueva** (E/CN.4/2004/56/Add 1, párr. 62). El Gobierno informó sobre la Instrucción Penal Preparatoria que tramita con intervención de la Unidad Funcional de Instrucción N.° 9 y Juzgado de Garantías N.° 5 del Departamento Judicial de Lomas Zamora. Actualmente se encontraría con requisitoria de elevación a juicio siendo conocida por el Relator Especial la identidad de los encausados así como los cargos imputados. Por otra parte, el Gobierno señaló que la investigación sumarial administrativa se encuentra en trámite pendiente de resolución, siendo la última disposición la recepción de la Declaración Indagatoria Administrativa al personal policial encausado.

93. Por carta de fecha 23 de noviembre de 2004 el Gobierno respondió en relación con el caso del Sr. Héctor Gustavo Agüero (E/CN.4/2004/56/Add.1, párr.66). El Gobierno informó de que se inició una causa judicial el 19 de junio de 2002 con intervención del Juzgado de Garantías N.° 1 del Defensor Oficial en turno, a fin de esclarecer las causas que provocaron su muerte en la Unidad Sanitaria 22 del complejo penitenciario de Olmos. El Juez de Turno dispuso la realización de la autopsia, cuyo resultado estaría supeditado a las pruebas periciales solicitadas, que incluyeron un estudio hispatológico y otro toxicológico. El primero, con fecha 22 de julio de 2002, determinó que existía un cuadro compatible con bronconeumonía incipiente, con hemorragia meníngea y congestión visceral generalizada. El segundo, con fecha 26 de agosto de 2002, no detectó dentro de la sangre y vísceras estudiadas la existencia de ninguna sustancia química. A fin de garantizar la transparencia de la pericia química llevada a cabo en fecha 12 de Julio de 2002, el Gobierno hizo constar que se permitió la presencia de un funcionario de la Secretaría de Derechos Humanos de la provincia de Buenos Aires. Dicho organismo intervino en el caso a instancias de la familia del Sr. Agüero. En fecha 28 de Agosto de 2002 el Agente Fiscal Interviniente solicitó la realización de una prueba pericial médica a fin de determinar si el tratamiento médico recibido había sido el adecuado, pero ésta fue suspendida a petición de la parte damnificada, que a su vez solicitó la producción de pruebas adicionales. El Gobierno confirma que se tomó declaración testimonial a vecinos de la zona y enfermeros que no aportaron información relevante para dilucidar las causas de la muerte. Finalmente, no fue posible establecer responsabilidad alguna por parte del personal médico que brindara asistencia al damnificado y el Fiscal propuso disponer el archivo de las actuaciones por no obrar prueba suficiente sobre la existencia del hecho o la autoría.

Observations

94. El Relator Especial considerado apropiado llamar la atención sobre ciertas cuestiones reflejadas como motivos de preocupación por el Comité Contra la Tortura (CAT/C/CR/33/1 párr. 6). Al Comité le preocupan en particular: las numerosas alegaciones de tortura y malos tratos cometidas de manera generalizada y habitual por las fuerzas y cuerpos de seguridad del Estado, tanto en las provincias como en la capital federal; la desproporción entre el elevado número de denuncias por actos de tortura y malos tratos y las mínimas condenas dictadas por dichas causas, así como los retrasos injustificables en la investigación

de casos de tortura, todo lo cual contribuye a la impunidad existente en esta materia; la práctica reiterada por parte de los funcionarios judiciales de realizar una calificación errónea de los hechos, asimilando el delito de tortura a tipos penales de menor gravedad (por ejemplo apremios ilegales), sancionados con penas inferiores, cuando en realidad merecerían la calificación de tortura; los informes de arrestos y detenciones de niños por debajo de la edad de responsabilidad penal, la mayoría "niños de la calle" y mendigos, en comisarías de policía donde llegan a estar detenidos junto a adultos, y sobre las supuestas torturas y malos tratos padecidos por éstos, que en algunos casos les produjeron la muerte; las alegaciones de torturas y malos tratos que padecen otros grupos vulnerables, como por ejemplo los miembros de las comunidades indígenas, minorías sexuales y mujeres; el elevado número de presos en prisión preventiva que en el sistema penitenciario bonaerense alcanza un 78% según el Estado Parte; la no aplicación del principio de separación entre condenados y procesados en centros de detención, y entre éstos y los inmigrantes sujetos a una orden de deportación, y las presuntas represalias, intimidaciones y amenazas recibidas por quienes denuncian actos de tortura y malos tratos.

Azerbaijan

95. By letter dated 2 September 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations concerning:

96. **Nuraddin Mamedli**, **Namik Axadzade**, **Jeyhun Ismailov**, **Hasarat Rustamov**, **Ramin Ruriyev**, **Fuad Gasanov**, **Natig Eynullayev**, **Vasif Abdullayev**, **Sardar Mamedov**, and **Saxavat Hajiyev**. On 25 May 2003, these men were among 50 protesters beaten by the police during a protest in Baku by 150 persons, concerning the treatment of opposition members in Parliament. The crowd included human rights defenders, journalists, and members of Parliament. The Minister of the Interior had reportedly stated that the officers who used excessive force were going to be dismissed.

97. **Sardar Agaev**, the driver of Isa Gambar, leader of the Musavat Party, and **Mahir Gambarov**, a cousin of Isa Gambar. On the evening of 16 October 2003, they were detained together with four bodyguards outside Isa Gambar's apartment building by about forty masked men, taken to the Organized Crime Unit (OCU) of the Ministry of Internal Affairs at around 7.30 p.m., and forced to sign blank statements, as well as a statement saying they did not need a lawyer. They were taken to the Narimanov District Court, where they were sentenced to 15 days of administrative detention for insulting a police officer, and returned to the OCU to serve their sentences in basement cells. On their arrival they were stripped naked and separated. Sardar Agaev was taken to a cell, where seven people beat him with fists and rubber truncheons, and kicked him. The beatings lasted for about one hour. They threatened him, saying "We have a bottle and we will rape you now." He was beaten again by four men the following morning, after which he lost consciousness, and water was thrown on him. As a result of the beatings to his kidney, he had blood in his urine. The beatings reportedly stopped following a meeting with a delegate from the International Committee of the Red Cross on 20 October. On 23 October, he was transferred to Khataye temporary detention centre and released on 25 October, after being ordered to appeal his sentence to the Court of Appeals. On 16 October, Mahir Gambarov was taken to a room where there were about eight persons waiting, and he was beaten for about one hour. He was held by the men and forced to beg for

mercy in front of a portrait of the President. The next day he was hit on the chest, slapped in the face, and beaten with rubber truncheons on the legs. He was handcuffed when he raised his hands to protect his face. His shoes and socks were removed and he was beaten on the soles of his feet, and threatened with rape. Handcuffed, they would pull his fingers apart. The perpetrators used a homemade tool with rubber pincers to pinch his fingers and would then plunge his hands into ice-cold water until he could not feel them. His feet were held under the legs of a chair and one of the perpetrators repeatedly sat down on it. He was reportedly told by the Chief of OCU (whose name is known to the Special Rapporteur) that in the backroom, "We have an electric chair there, and once you go there, you will speak, you won't be able to stop speaking."

98. **Ibrahim Ibrahimli**, the deputy chairperson of Musavat. On 16 October 2003, he was arrested by members of OCU and taken to its offices. There, he was beaten while handcuffed to a chair and his right index finger was crushed in a steel door when he refused to denounce Musavat and Isa Gambar, and implicate himself in the events of 16 October. When his lawyer was able to see him on 18 October, Ibrahim Ibrahimli was unable to speak because he had not been allowed to eat or drink since his arrest, his left hand was swollen and he had to hold it up, the index finger on his right hand was black and swollen. He had bruises on his face. He had difficulty walking, and the soles of his feet were completely black.

99. **Farhad Adjirgaev**, a district election commissioner in Zagatala. On the evening of 16 October 2003, he was arrested by police at his home. When he arrived at the police station, a deputy police chief punched Farhad Adjirgaev in the mouth, and when he fell down a group of policemen began kicking him. He was charged with attacking a police officer and taking his gun, and sentenced to two months investigative detention. He was released on 29 October following an appeal to the Court of Appeals.

100. **Akif Bederli**, the Musavat chairperson in Jalilabad. On 16 October 2003 at about 5 p.m., he was detained together with a group of other Jalilabad opposition figures in Baku. The men had gone to Baku to report their election observations to the Musavat headquarters. The men were taken to Yasamal Police Station. They were then beaten by about ten police officers in the office of the station chief. Akif Bederli was told to kneel, and one of the policemen kicked him in the face, breaking his nose and making it bleed. Four other men beat him on the back.

101. **Vugar Muradli**, a journalist for the opposition newspaper *Hurriyet* and an election observer for the ADP. He went to Baku on 16 October 2003 to report his election observations to the ADP headquarters. When he returned to Zagatala on 17 October, he went directly to the police station because police officials who were looking for him had harassed his family. As soon as he arrived at the station, he was taken to the office of a top police official and a deputy chief of the traffic department, where he was verbally abused, pushed against a wall, punched in the face and kicked. For 30 minutes he was hit on the back of the head with truncheons, on the arms and legs, and on the kidneys. When he fell to the ground, they spat on him. The next day, Vugar Muradli was taken to court, charged with resisting police, and sentenced to seven days administrative detention. He was released after five days.

102. **Abdullah Rafizadeh**, the Ali Bairamli chairperson of Musavat. On 17 October 2003, he was seriously assaulted outside a sports centre in town. On his way to the hospital,

Abdullah Rafizadeh, his son and three Musavat members were stopped by the police and arrested. The next day, they were brought to court on a charge of insulting the police and sentenced to fifteen days. The police refused to allow Rafizadeh to see a doctor, and the detainees were forced to sweep the road and pick up garbage. He was released after ten days, after the police forced him to pay US$500 or face months of investigative detention.

103. **Hassan Hassanov**, the Azerbaijan National Independence Party (ANIP) chairman in Guba. On 17 October 2003, he was arrested and taken to Guba Police Station. When he arrived, a deputy police chief slapped him in the face and ordered a group of policemen to beat him, stating that he had warned Hassan Hassanov he would arrest him after the election because he brought ANIP opposition candidate Etibar Mamedov to Guba. At around 2 a.m. on 18 October, he was taken to the office of the police chief, where he was again beaten and threatened with rape, being told "We will rape you, and take photos and distribute them to your family and on the street. We will put the photos up the same way you put up posters of Etibar [Mamedov]". The police insisted that he denounce ANIP.

104. **Iqbal Agazadeh**, the leader of Umid Party and a member of Parliament, and his brother **Ilgar**. On 17 October 2003, they were arrested at home by masked OCU members, who started shooting in the air before arresting them. On the way to the OCU premises, one of the OCU members glove continuously punched Iqbal Agazadeh in the face with a steel-reinforced. When they arrived at the OCU, they were made to lie down in the courtyard, where they were handcuffed and beaten with rubber truncheons and kicked. One of Iqbal Agazadeh's legs was hit fifty times without stopping, and he was threatened that his sister would be raped if he did not denounce Musavat. Iqbal Agazadeh was dragged along the ground with his hands handcuffed behind his back to his cell. When his lawyer finally gained access to him on 20 October, Iqbal Agazadeh had just been forced to give an interview to ANS television in which he denounced Musavat and Isa Gambar for their role in the 16 October violence. Nearly one month after the beatings, in mid-November, Iqbal Agazadeh was still barely able to walk because of the injuries caused by the beatings to his leg.

105. **Natik Jabiev**, the ADP elections-secretary, and the ADP secretary-general **Sardar Jalaloglu**. At the latter's house, on the evening of 18 October 2003, masked and armed OCU members broke in through the windows and began beating them before taking them to the OCU office. After being forced to lie on the wet ground of the OCU's courtyard for half an hour, being kicked and beaten the whole time, Natik Jabiev was taken to the office of the chief of OCU, where he was questioned and beaten for nearly four hours. Before beginning the interrogation, the chief beat the handcuffed Natik Jabiev for about 45 minutes with his fists and kicked him. He was hit several times on the ears, punched in the kidneys, and kicked in the testicles. The Chief broke a chair by hitting Natik Jabiev with it. Two investigators, including a senior official from the investigative division of OCU, joined the chief and the beatings continued for another three hours. After the interrogation, he was taken to the basement cells where a group of masked men dressed in black administered another severe beating. Natik Jabiev was released on 25 October. When Sardar Jalaloglu's lawyer saw him on 19 October during a court hearing, he noticed only minor injuries on his client. However on 22 October at Bayil prison Sardar Jalaloglu had a large bruise on his right hip, in addition to more injuries all over his body.

106. **Ulvi Hakimov**, the president of the Azerbaijan National Democracy Foundation. On 18 October 2003, he was detained on suspicion of beating a journalist from Lider TV. At the police station, he was hit on the ear about twenty times by an official who demanded that he confess to his involvement in the beating of the journalist.

107. **Etimad Asadov**, the chairperson of the Karabagh Invalids' Association. On 26 October 2003, he was arrested and taken to the OCU. Despite having an artificial leg, he was severely beaten. His lawyer, who visited him at Bayil Prison on 29 October, noticed bruises on his back, arms, and chest.

108. **Rovshan Ahmedov**, a member of ADP. On 9 November 2003, he was called to Police Station 9 in Baku, and was beaten there by three police officials with rubber truncheons, fists and with a chair. They forced him to denounce ADP secretary-general Sardar Jalaloglu. He was then taken to the prosecutor's office where he was questioned for two days and pressured to denounce Sardar Jalaloglu.

109. **27 worshippers** at the Juma Mosque, Old City, Baku. On 30 June 2004, 27 persons were arrested by the police, who forcibly entered the Juma Mosque to implement a court order to evict the congregation of Muslims who worship there independently of the official Muslim Board, for holding an unsanctioned religious meeting. The worshippers were verbally abused and reportedly fined 50,000 manats if they did not sign statements that they would no longer attend the mosque. Four worshippers were beaten in detention.

Urgent appeals

110. On 17 June 2004, the Special Rapporteur sent an urgent appeal concerning **Hakan Aydémir**, a 22 year-old Turkish national of Kurdish origin. According to the allegations received, Mr. Aydémir, who is completing a four-year prison sentence in Baku for illegal entry into the country, is at risk of imminent forcible return to Turkey. His extradition is sought in connection with charges against him of membership in a terrorist organization and for terrorist-related activities in the Syrian Arab Republic and Iraq between 1995 and 1999, i.e. from when he was 14 years old. His family has been involved in Kurdish causes in Turkey, for which his father was imprisoned for 11 years, his mother was forced into exile, and his grandfather was assassinated.

111. By letter dated 13 August 2004, the Government informed that having served his sentence, Mr. Aydémir was released on 18 June 2004. The issue of his extradition has not been considered and he has not been extradited.

Bahamas

Urgent appeals

112. On 19 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers regarding **Rene Mendoza Banos** and **Jorge Luis Conde**, both Cuban asylum-seekers. According to the allegations received, on 1 October 2004 the two men who are detained at the Carmichael Detention Centre

were severely beaten with batons by soldiers and subjected to a mock execution, where guns were pointed at their heads.

113. Further allegations were received concerning other **Haitian and Cuban detainees** at the Carmichael facility. On 9 October, a number of Haitians escaped from the centre and over the following two days soldiers beat several Haitian detainees, apparently in retaliation for the escape. Some detainees were seriously injured and denied medical attention. On 10 October, several Cuban detainees, including children, were forced to stand against a fence inside the camp from 3 p.m. to 5.30 p.m., with no water, in temperatures of around 30C. There are at least five children at the centre, age between three and nine; at least one of them has been held at the centre for over six months. Tuberculosis is reportedly widespread among the detainees, who are denied medical treatment and have inadequate access to food and water. Many of the detainees have had no access to lawyers, or to the United Nations High Commissioner for Refugees.

Bahrain

114. By letter dated 14 May 2004, the Special Rapporteur notified the Government that he had received information regarding **Legislative Decree No. 56 of 2002** concerning the interpretation of provisions of Legislative Decree No. 10 of 2001 on a general amnesty for crimes affecting national security. It is reported that article 1 of Decree No. 56 effectively extends immunity for human rights violations committed by public officials, as it indicates that cases brought "before any judicial authority by reason of or on the occasion of the crimes subject to amnesty, whoever may be the person filing it and irrespective of the capacity against whom it is filed, whether he is an ordinary citizen or a civilian or military public servant and whatever may be the nature of his participation in such crimes, whether an original perpetrator or an accessory during the period prior to the effective date of this law" shall not be heard. In the light of Bahrain being a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment , the Special Rapporteur recalls that amnesties are generally incompatible with the duty of States to investigate acts of torture; to guarantee freedom from such acts within their jurisdiction; and to ensure that they do not occur in the future. The Vienna Declaration and Programme of Action stipulates that "States should abrogate legislation leading to impunity for those responsible for grave violations of human rights such as torture and prosecute such violations, thereby providing a firm basis for the rule of law."

115. By letter dated 1 June 2004, the Government informed that Decree No. 56 of 2002 (issued 23 October 2002) explains and confirms certain provisions of the general amnesty contained in Decree No. 10 of 2001 (issued February 2001). This decree proclaimed a general amnesty for those convicted for a range of crimes, intended to wipe the slate clean for society as a whole as Bahrain embarked on a new democratic era pursuant to its National Action Charter of 2001 and the revised Constitution of 2002. Both decrees are consistent with amnesties declared by other Governments worldwide during the past two decades. Decree No. 56 confirmed the general nature of the amnesty. Given that the amnesty extends to those convicted for a range of crimes, it cannot logically or morally be denied to any citizen facing allegations that the Kingdom firmly believes are completely without foundation. By its very nature, a general amnesty cannot be selectively applied. To be effective, such an amnesty must apply to all individuals and sections of society that come within its terms. The granting

of a general amnesty is in accordance with, and envisage by article 41 of the Constitution, and the decision was taken only after a careful consideration of all relevant factors, including the overriding need to reconcile all sections of society. Measures have been put into place to ensure fair and just compensation to any person with a well-founded grievance. In the interests of national unity and social cohesion, the Government is adopting an open and generous approach to such claims for compensation. The independent judiciary is available to take up any well-founded grievance, and has done so in a number of recent cases. Decree No. 56 (2002) and Decree No. 10 (2001) therefore fulfil an important role in wiping the slate clean for all sections of society in respect of all relevant previous acts and allegations. Measures and procedures exist in both the Constitution and criminal law to remedy any genuine claim or grievance that may be brought.

Urgent appeals

116. On 7 April 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 Representative of the Secretary-General on the situation of human rights defenders, regarding **Abdulrauf Al-Shayeb**, the official spokesperson of the National Committee for Martyrs and Victims of Torture, an organization that works on the rehabilitation of torture victims and on bringing the perpetrators to justice. According to the allegations received, on 30 March 2004, he was arrested and held until 3 April. Abdulrauf Al-Shayeb was charged with "immoral indecency". During his detention, a former high-level military officer (whose name is known to the Special Rapporteur and the Special Representative), who had been accused by the National Committee for Martyrs and Victims of Torture of being involved in the torture of detainees, threatened to "cut his tongue, which is too long". Abdulrauf Al-Shayeb is reportedly expected to present himself to the Public Prosecutor on 7 April 2004.

117. By letter dated 16 April 2004 the Government responded that on 30 March 2004, he was caught by the police in flagrante delicto, arrested and charged with trespassing on private property. In light of the evidence uncovered, the Department of Public Prosecutions decided to remand Mr. Al-Shayeb in custody for a period of seven days pursuant to article 147 of the Code of Criminal Procedure. Full guarantees ensuring the protection of the dignity of the accused and the impartiality of the investigation were afforded, in accordance with article 61 of the Code of Criminal Procedure. The lawyers for the accused filed an application for bail and, on 3 April 2004, the Department of Public Prosecutions released the accused on a bail of 100 dinars. With regard to the question about the accused person having been arrested on 30 March 2004 and remanded in custody until 3 April 2004, the Government informed that by Decree Law No. 11 of 2001, the practice of internment had been abolished. Anyone who is arrested must be turned over within 48 hours to the Department of Public Prosecutions, which must launch an investigation and issue an order for that person's remand in custody for a period of seven days. The case files are then submitted to the courts to decide whether to extend the period in remand. There is no truth to the allegation that the accused was subjected to inhuman treatment. All the procedures taken in his regard were implemented in accordance with the law and under judicial scrutiny. The laws relating to the arrest and interview of suspects were observed and none of the procedures in any way violated his right to freedom of expression and opinion, since the incident for which he was arrested had nothing to do with the opinions he expresses. As for his claim that a senior police officer mocked him and

threatened to cut off his tongue, the investigation found no evidence to support that claim. As for the laws guaranteeing the rights of individuals and protecting them against the infliction of torture or other cruel or degrading treatment or punishment, the initial and supplementary reports that the Kingdom of Bahrain intends to submit to the Committee against Torture in accordance with the Convention provide the answers to all these questions.

118. On 1 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders, regarding the **Bahrain Centre for Human Rights** (BCHR) and its executive director, **Abdul-Hadi Al-Khawaja**. According to the allegations received, on 26 September 2004, he was arrested at around 10. 30 p.m. at Nabee Saleh Police Station, where he was summoned two days after his participation in a symposium called "Poverty and Economic Rights in Bahrain", organized by the BCHR in the Al-Orooba Club. He was later brought to the Howdh Aljaf Detention Centre, where the Public Prosecutor remanded him in custody for a period of 45 days. Abdul-Hadi Al-Khawaja is being held in incommunicado detention and has been denied visits from his family and lawyer.

119. By letter dated 6 October 2004, the Government informed that throughout his time in custody, he has been afforded all his rights of visit, representation and welfare, including family and other visits and the offer of legal counsel which he declined. Claims that Abdul Hadi Al-Khawaja is or was detained incommunicado, or that he was subjected to any form of improper, cruel, inhuman or degrading treatment or punishment, are therefore without foundation. Abdul Hadi Al-Khawaja is being given all his rights as set out in the Constitution and laws as well as in relevant international human rights conventions. At no time since its inception has the Attorney General's Office prevented a lawyer from attending any person being questioned or charged in any case. However, Abdul Hadi Al-Khawaja refused the presence of an attorney during his questioning. Nevertheless, he has received visits by family members, a representative of the Bahrain Human Rights Society, and two lawyers.

120. By letter dated 1 December 2004, the Government informed that on 21 November 2004, Abdul Hadi Al-Khawaja was sentenced in absentia to one year's imprisonment. The same day, the King pardoned him from serving the remainder of the sentence in light of the time spent in custody prior to the court ruling.

Bangladesh

121. By letter dated 9 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Hiramon Mondol**, a journalist for the daily newspaper *Dainik Prabarttan* in Khulna. On 8 August 2003, he went to the police and security forces joint task force camp in connection with an article he had written on 3 August, in which he accused the police and security forces of stealing valuable fish from local fishermen. At the camp, the police beat Hiramon Mondol with rifles and hockey sticks. He received medical treatment for his wounds, but was transferred to the district jail in Khulna, and charged with theft.

122. By letter dated 9 August 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he 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, sub-district of Kaligaonj, Satkhira. In the attack, several houses were destroyed and three women were raped. They were released from hospital on 21 July. The victims have not received an official medical examination. The police warned the victims not to undergo medical examinations and threatened harm to the victims' husbands if they did.

123. By letter dated 11 August 2004, the Government informed that the allegations of rape of the three women have been found to be baseless and unfounded. The incident occurred over disputed land between two rival groups and the law enforcement authorities remain seized of the matter.

124. By letter dated 1 September 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

125. **R. C.**, age 13, Samsur Rahman Road, Khulna. On 9 June 2004, he was arrested by plain clothes policemen of the Khulna Metropolitan Police (whose names are known to the Special Rapporteur). The next day his mother was informed of his death and received his body. Multiple injuries were visible, including broken hands, injuries to his legs, chest, teeth, testicles, and a bullet wound in the head.

126. **Debashish Kumar Das**, age 32, Badda. On 26 June 2004, he was arrested by the Rapid Action Battalion (RAB) at a private clinic in Sreepur area, Savar Thana. A few hours after he was interrogated at the RAB office in Uttara, he was taken to the Dhaka Medical College Hospital but died on the way there. His body bore marks of injuries on the chest and head.

127. **Sumon Ahmed Majumdar**, age 30, Morkun, Tongi, Gazipur district. On 15 July 2004 at 4 p.m., he was arrested at his home by RAB-1, led by a sub-inspector (whose name is known to the Special Rapporteur). At about 10 p.m., the sub-inspector took Sumon Ahmed Majumdar to Tongi Police Station to hand him over, but the duty officer refused to admit Sumon Ahmed Majumdar without a medical certificate as he appeared to be seriously injured. The sub-inspector then took him to Tongi Hospital, where he was treated for shock, injury to his fingers, and swelling on different parts of his body. He was returned to the police station at 11.45 p.m., but was taken back to Tongi Hospital a bit later. Sumon Ahmed Majumdar's family received an anonymous phone call at midnight alerting them that he was admitted to the hospital in a critical condition; however, when his mother went to see him, she was denied access and told that his condition was good. He died there at 1.20 a.m., and was later buried amid tight police security. He was in good health prior to his arrest.

128. **Shajahan Bepari**, a 25-year-old shoe store employee, Johuri Mahalla, Mohammadpur. On 6 July 2004, he was arrested by RAB in Dhanmondi. He was rushed to the Dhaka Medical College Hospital on the evening of 7 July, and he died on the morning of 9 July. Hospital sources reported that Shahjahan Bepari was admitted with injuries on his hands and legs. The inquest report prepared by a magistrate at the Dhaka Medical College Hospital indicated that Shahjahan Bepari's arms and legs were swollen, and an injury was found on his head.

129. By letter dated 29 September 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received allegations concerning **Israt Zahan Nasrin**, age 26, Sholna. On 28 April 2004, she was arrested at Dhanmondi Trauma Centre in Dhaka and taken blindfolded by police officers of Ramna Police Station to an unknown place where she was interrogated and tortured for two days. She was kicked on her legs and beaten with a heavy stick and a rifle. She was subjected to electric shocks and a pin was pushed into her finger. On 1 May 2004, she was brought before a court and granted a one-day remand. However, the police kept her for two days in custody. A complaint was filed against the police involved in the incident, but no action was taken to bring the perpetrators to justice.

130. By letter dated 1 October 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations according to which the police used batons and tear gas to disperse a student demonstration organized at Dhaka University on 2 March 2004. During the dispersal of the demonstration, **Mainul Hossain Chowdhury**, a journalist with the daily newspaper *Ajker Kagoj*, was beaten by the police. He was treated for a fractured leg and a head injury. At least six or seven other journalists were wounded and 100 students were injured in this attack.

131. Moreover, on 5 June 2004, **M.A. Manik**, a photographer with the local Bengali-language *Grammer Kagoj*, was beaten by police while covering a strike in the town of Jessore. The local press club later organized a march to protest against the attack against the journalist. During this second march, five other journalists were reportedly injured due to excessive use of force by the police.

132. By letter dated 13 October 2004, sent jointly with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, the Special Rapporteur notified the Government that he had received allegations concerning:

133. **Chanu Ranjan Chakma**, Naraichari village, Bilaichari Upazilla, Rangamati Hill District. On 12 June 2002 at 12.30 a.m., he was arrested by personnel of the East Bengal Regiment, Dighalchari Zone, Kaptai Brigade, Rangamati Hill district. He was beaten, kicked and injured in the head, hands and legs. He was released at 6 p.m., and was treated at Rangamati General Hospital for his injuries.

134. **Apru Mong Karbari**, age 66**, Thuichirrg Prue Member**, age 41, **Kya Hla Prue Marma**, age 32, **Mong Cha Prue Marma**, age 32, **Mong Prue Chaing Marma**, age 36, **Pai Shwe Ching Marma**, age 35, **Ynesa Chiag**, age 18, **Kayaisang Prue Marma**, age 54, **U Thoi Se Marma**, age 33, **Kya Hla Aumg Marma**, age 32. On 7 September 2002 at 1 a.m., a group of army personnel raided the Sao Para village, No. 324 Chemi Mouza, Kuhalomg Union Council, Bandarban Thana, Bandarban Hill district. The villagers were subjected to beatings to force them to confess to terrorist-related activities. On the same day, the same personnel attacked the adjacent Chibuk Para village, and subjected **Kya Hla Marma**, age 28, and **Mong Ba Thowai Marma**, age 32, to similar treatment. Kya Hla Aumg Marma, Kya Hla Marma, and Mong Ba Thowai Marma were detained for further questioning.

135. **Kalu Chakma**, age 29, **Subir Tanchangya**, age 26, **Jetindra Tanchangya**, age 29, **Sukumar Tanchangya**, age 24, **Samiran Tanchangya**, age 23, **Kuladhan Tan-changya**,

age 24, **Kali Kuiriar Tanchangya**, age 27, and **Subinoy Chakma**, age 60. Between 7 and 9 September 2002, an officer (whose name is known to the Special Rapporteur) led a group of about 40 soldiers to raid the Khwiang Para village, Kuhaloag Union Parishad, Bandarban Upazilla, Bandarban Hill District. They were arrested, beaten, and kicked with boots on suspicion of involvement in terrorist-related activities.

136. **Su Chai Mong Marma**, age 35, **Thowai Ching Prue Marma**, age 35, **Nishi Ratan Chakma**, age 29, **Amulya Ratan Chakma**, age 33, **Medo-se Marma**, age 50, **Hla Ching Mong Marma**, age 27, **Thowai Aung Prue**, age 20, **Mong Ching Thowai Marma**, age 20, **Kaho Ching Marma**, age 18, **Matanga Moni Chakma**, age 30, **Ching Kyaw Nue Marma**, age 25, **Kyaw Shwe Prue Marma**, age 18, **U Nue Prue Marma**, age 28, **Nue Nue Mong Marma**, age 27, **Chandra Rekha Chakma**, and **Sangma Prue Marma**, age 31. On 8 September 2002 at about 10 .pm., a group of army personnel from the headquarters of the Sixth Infantry Division at Bandarban led by a captain (whose name is known to the Special Rapporteur) attacked the inhabitants of Amtoli village, No. 324 Chemi Mouza, Kuhalong Union Parishad, Bandarban Sadar Upazilla, Bandarban District. They were detained for four days, verbally abused and beaten to confess to terrorist-related activities.

137. **Nobhina Tanchangya**, age 45, **Chandra Lal Tanchangya**, age 45, **Kesha Chandra Tanchangya**, age 50, **Chandra Lakkha Tanchangya**, aed 55, **Ailiarang Chakma**, age 45, **Sharat Kumar Tanchangya**, age 45, **Ajit Kumar Tanchangya**, age 45, **Nitya Ranjan Tanchangya**, age 55, **Joy Moni Tanchangya**, age 35, **Jyotirindra Tanchangya**, age 32, **Arabindu Tanchangya**, age 30, **Jolitasen Tanchangya**, age 20, **Lakshmi Dhan Tanchangya**, age 30, **Akshay Tanchangya**, age 40, **Puk Y Marma**, age 25, **Morntu Marma**, age 35, **Monjiari Marma**, age 55, **Asa Chandra Tripura**, age 40, **Mongal Tripura**, age 26, **Brikanda Tripura**, age 35, **Puna Chandra Tripura**, age 35, **Sadhula Tripura**, age 20, **Sushil Tripura**, age 22, **Ishwar Chandra Tripura**, age 40, **Jorai Tripura**, age 33, and **Raymond Tripura**, age 25, a primary schoolteacher. On 24 September 2002 at 4.45 a.m., 50 to 60 army personnel of the 69th Infantry Brigade, led by a major (whose name is known to the Special Rapporteur), raided Baghichara Para village, No. 318 Kunalong Mouza, Bandarban sub-district, Baridarban Hill District. They were gathered together, verbally abused, pulled by the hair and ears, slapped in the face, kicked with boots, and hit with sticks, rifle butts and the hilts of daggers, to force them to confess to terrorist-related activities.

138. **Shraman Naingda Sa-Ra**, age 18, a Buddhist monk, **Shraman Naingda Ba-Sa**, age 20, a Buddhist monk, **Usa Ching Marma**, age 36, and **Thui Se Marma**, all of Jam Chari Mukh Para village; **Umya Nue Marma**, age 40, **U. C. N. M.**, age 13, **M. K. M.**, age 14, **U Nue Ching Marma**, age 25, and **Shwe Mra Prue Marma**, age 30, all of Jam Chari Bhitor Para village; **Hla Mong Marma**, age 30, **Mekrajaing Marma**, age 40, **L. K. C.**, age 10, **S. K. C.**, age 6, and **Shwe Mra Ching Marma**, 35, all of Khamadong Para village; and **Sucfri Chakma**, Jam Chari Krakshyang Chakma Para village. On 30 September 2002, personnel of the East Bengal Regiment, Baghmara Army Camp, led by an officer (whose name is known to the Special Rapporteur), attacked the Jumma villages in Baghmara, Bandarban Hill District, and arrested the above-mentioned persons on suspicion of terrorist-related activities. They were kicked, beaten with sticks, and hit with rifle butts and hilts of daggers to force them to confess. Mekrajaing Marma, L. K. C., S. K. C., Usa Ching Marma, and Thui Se Marma were reportedly taken to the Baghmara Army Camp for further interrogation and were beaten.

139. **Dipankar Talukdar**, age 18, **Dipak Chakma**, age 20, both from Dhulyatuli village, Kaptai Upazilla, Rangamati Hill district, and **Mohammed Idris**, Dhakeya Colony. On 13 December 2002, the Commander of the S-ban Camp of the 14th East Bengal Regiment (whose name is known to the Special Rapporteur) led a group of army personnel to the village and arrested the three men. Their hands and legs were tied and they were beaten to confess that they were terrorists. They were released from the camp the next day. On 2 January 2003, **Kaladhan Chakma**, age 28, Jouthakhamar village, **Sadhu Chakma**, age 26, Tarenge Para village, Mogban Union Parishad and **Amal Kanti Chakma**, age 25, Dhanpada village, Jibtali Union Parishad, Kaptai Upazilla (sub-district), Rangamati Hill district, were on their way to Bilaichari Bazaar, when they were arrested by army personnel led by the same commander. They received similar treatment and were also robbed of money.

140. **Jogesh Chakma**, age 22, **Dighinala, Swapan Chakma**, age 18, Jora Bridge, **Surajit Chakma**, age 24, Mahajan Para, **Tuhin Chakma**, age 22, **Shanti Chakma**, age 20, **Ashish Pranay Chakma**, age 18, and **C. C.**, age 16. The seven persons are members of the Pahari Chhatra Parishad (PCP), or Hill Students Council, a student organization of the Jumma indigenous people supporting the Parbatya Chattagram Jana Samhati Samiti (PCJSS), an organization of the indigenous tribal peoples of the Chittagong Hill Tracts. On 6 August 2004, in the 6th Mile Area of Khagrachari-Dighinala Road, personnel of the Bangladesh Army arrested Jogesh Chakma at around 10 a.m. and Swapan Chakma and Surajit Chakma in the afternoon. They were taken to the Khagrachari Army Brigade headquarters and detained there and with sticks. Jogesh Chakma sustained a broken left hand. At 8.30 p.m. the same day, army personnel from the Khagrachari zone raided the office of the PCJSS, Madhupur, Khagrachari, and arrested the other four persons. They were accused of keeping arms and beaten until 10 p.m. The four men were later taken to the army's Khagrachari headquarters. They were released at midnight.

141. By letter dated 15 November 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning **Mohammed Sha Newaz Tito**, age 30, **Munir Hossain Talukdar** and **Ziaul Alam Dipu**, Agrabad, Chittagong. On 4 August 2004 around 2.15 p.m., they were beaten and arrested at a restaurant in the Agrabad area by around 20 members of RAB led by a commander (whose name is known to the Special Rapporteur). They were taken to Ziaul Alam Dipu's house, where Ziaul Alam Dipu was subjected to electric shocks on his genitals. Several family members and neighbours witnessed the ill-treatment. Around 4.45 p.m., Ziaul Alam Dipu and Munir Hossain Talukdar were taken to Double Mooring Police Station. On 5 August at 5 a.m., an official of the station informed the relatives that they were in a poor physical condition. Ziaul Alam Dipu could neither walk nor stand. All three men were brought before a court and remanded in detention on charges of possession of illegal weapons. Sha Newaz Tito was admitted to the Department of Neurosurgery, Chittagong Medical College Hospital, where he died on 6 August 2004. According to police reports, he sustained the injuries when he attempted to escape through a first floor window. However, the autopsy report of 8 August contradicts this version, indicates numerous injuries all over his body, as well as head injuries, which might have caused his death.

142. By letter dated 17 November 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations concerning **Azaharul Islam Montu**, a correspondent for the daily *Grammer Kagoj*, based in Ashasuni Upazila, Satkhira district. On 19 September 2004, he was attacked by a gang of drug traffickers and left seriously injured and unconscious on the road. It is reported that the police have refused to open an investigation into the assault. The attack came only days after the newspaper published his investigative report on local drug trafficking.

Urgent appeals

143. On 9 June 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding **Qazi Faruque Ahmed** and **David William Biswas**, president and vice-president, respectively, of PROSHIKA, a NGO working for human development. According to the allegations received, on 22 May 2004, they were arrested without being informed of the reason and are held incommunicado. On 20 April 2004, **Abdur Rob**, a manager of PROSHIKA, was arrested and the police claimed that when he was presented in court, he had confessed that PROSHIKA was involved in political activity. Despite his claim that he was forced to sign the confession under torture, Abdur Rob was charged with treason. Qazi Faruque Ahmed's health is deteriorating due to the lack of proper medical treatment for severe diabetes.

144. By letter dated 10 June 2004, the Government informed that the High Court granted ad interim bail on 8 June 2004 to David William Biswas, who was arrested on graft cases. By letter dated 27 October 2004, the Government informed that Quazi Faruque Ahmed and David William Biswas remain free on bail. All have full access to and are availing of legal counsel of their choice.

145. On 1 September 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders, regarding **Rafique al-Islam**, responsible for the activities of the International Campaign to Ban Landmines and the representative of Non Violence International in Bangladesh. According to the allegations received, on 21 August 2004 at approximately 2.30 p.m., Rafique al-Islam was arrested at his home in Cox's Bazar by military officers of RAB and taken to Cox's Bazar prison. A hearing of the charges against him was scheduled for 26 August but was subsequently postponed to 29 August. Neither his family nor lawyer were informed of the charges brought against him. On 29 August 2004, Rafique al-Islam was remanded into the custody of RAB for interrogation and is to be transferred to an unknown location.

Follow-up to previously transmitted communications

146. By letter dated 17 February 2004, the Government provided information on **Hiramon Mondol** (E/CN.4/2004/56/Add.1, para. 132). The Government informed that on receipt of a complaint against him relating to blackmail, a case was registered at Paikgacha Police Station on 11 August 2003 under section 4 of the Speedy Trial Act 2002. After an investigation, a charge was filed against Hiramon Mondol, he was arrested, and the case is currently pending in court.

147. By letter dated 17 February 2004, the Government provided information concerning **Pubali Tripura**, **S. T.**, and **Karandi Tripura (**E/CN.4/2004/56/Add.1, para. 123). The Government informed that it was widely believed that in retaliation to the arrest of two supporters of the tribal group Pahari Chhatra Parishad (PCP) for illegal toll collection, PCP supporters brought allegations of rape of three tribal women and stabbing of a one-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, the media, after thorough independent investigation, found that the allegations were not true.

148. By letter dated 21 May 2004, the Government provided information concerning:

149. **Firoz** (E/CN.4/2002/76/Add.1, para. 118). The Government informed that there was no record of his torture or detention found at Mohammadpur Police Station. In the absence of relevant information such as his particulars and the address of his parents, place of occurrence of the incident, and reference of a case, it was not possible to carry out further investigations.

150. **Sheikh Mohammad Haroon** (E/CN.4/2002/76/Add.1, para. 118). The Government informed that he was caught by a mob while committing a robbery in Mohammadpur, Dhaka, on 24 April 1998. The police from Mohammadpur Police Station arrived at the scene and rescued Sheikh Mohammad Haroon from the angry mob that had beaten him up severely. Police recovered explosives in his possession, and he was arrested and sent to the hospital for treatment. Two criminal cases were lodged against him under the Explosives Act and the Arms Act at Mohammadpur Police Station. Allegations of torture by the police were not found to be true. On the contrary, the police are reported to have rescued him from the hands of an angry mob and provided him with protection and treatment for injuries suffered as result of beatings by the mob.

151. **Sheikh Shahabuddin Ahmed** (E/CN.4/2002/76/Add.1, para. 120). The Government informed that the police from Savar Police Station, upon receiving news that a suspect had been detained by the villagers in Majidpur, rushed to the village. On reaching the village, the plain-clothes policemen, were attacked and obstructed from carrying out their duty by some villagers, possibly on mistaken identity. The police finally manage to bring the situation under control and arrested Sheikh Shahabuddin Ahmed, and a case under the Penal Code was filed against him. Sheikh Shahabuddin brought allegations of assault against the police, and charged that as a result, he lost four teeth and suffered an injury to his left eye. An investigation was carried out, which found that the sub-inspector who had carried out the raid, was responsible for causing injuries to Sheikh Shahabuddin. He was removed from the service for abuse of power and conduct contrary to his official duty.

152. By letter dated 21 May 2004, the Government provided information concerning:

153. **C. M. (**E/CN.4/2002/76/Add.1, para. 124). The Government informed that according to an investigation carried out, on 18 March 2000, she was abducted on her way home by three men of Tintohori village of Khagrachari. The three accused are believed to have taken the girl to the adjacent forest and raped her repeatedly. Her father and other villagers subsequently rescued her. The three accused fled the area. The victim's father

lodged a complaint against them at the Manikchari Police Station and they were charged on 19 May 2000 under the Women and Children Repression Control Act, 2000. Arrest warrants have been issued against them, but they remain at large.

154. **Momta Khatun Rekha** (E/CN.4/2002/76/Add.1, para. 125). The Government informed that two policemen of Bhuapur Police Station were charged under the Cruelty to Women and Children Ordinance of 1995. Both were arrested, brought before the court and subsequently acquitted. In December 1999, one policeman was tried under departmental proceedings under the Police Officers' Special Ordinance 1976 (amended in 1982), and discharged from service. Allegations of the victim being compelled to withdraw the case were not found to be true.

155. **Rowshan Ara Begum** (E/CN.4/2002/76/Add.1, para. 126). The Government informed that she filed a First Information Report on 2 May 1999, alleging that five persons, all of the Kazihati Police Station, Pakundia, entered her house forcibly on the night of 1 May 1999 and asked her to sign a blank paper. After she refused to do so, she was raped by two of them in front of her 13-year-old daughter. On the basis of her complaint, case No. 1 of 2 May 1999 under the Cruelty to Women and Children Ordinance 1995 was lodged against the five accused. The court convicted two men, both of whom are in custody. They have appealed their convictions. The Government has provided government living quarters for Rowshan Ara Begum and her family and has taken measures to provide her security.

156. By letter dated 21 May 2004, the Government provided information concerning:

157. **Mr. Nuruzzaman** (E/CN.4/2004/56/Add.1, para. 134). The Government informed that contrary to the allegations that he was detained without charges, it was confirmed that there are three cases pending against him. Mr. Nuruzzaman was arrested on 18 November 2003 at his house in Sylhet by Srimongol police and sent to Moulvibazar Court. The court sent the accused on two days' police remand on the request of the investigating officer. According to reports, during the police interrogation, on the night of 20 November 2003, the accused fell ill. He was taken to Srimongol Upazilla Health Complex where he was treated. On the advice of the physicians, he was moved to the Sylhet Osmani Medical College Hospital for better treatment. On 22 October 2003, Nuruzzaman was discharged from the hospital with a certificate indicating that he had a peptic ulcer and diabetes, but was otherwise well. He was then taken to Moulvibazar Court, from where he was sent to Moulvibazar district jail. The cases brought against Mr. Nuruzzaman are currently under investigation.

158. By letter dated 24 May 2004, the Government provided information concerning **Babita Baimali** (E/CN.4/2004/56/Add.1, para. 133). The Government informed that according to reports, she was picked up along with a man on the morning of 16 October 2003 by the Officer-in-Charge of Bagmara police station. Both were found in a compromising position, and were arrested on charges of engaging in immoral activities in a public place under section 54 of the Criminal Procedure Code. Investigations carried out found that the co-accused, his brother-in-law and another man raped Babita Baimali on the night of 16 October on the way back from the court. According to the statements given by Babita Baimali, the mini-taxi drivers who transported the accused to the court and the constables from the court back to the police station, as well as the court records, the allegations that the police

constables raped Babita Baimali were found to be completely unfounded. In Babita Baimali's own statement, she accused her co-accused and his brother-in-law of raping her. However, an independent inquiry was conducted into the allegations made against the police personnel, and in order to ensure neutrality and impartiality of the inquiry, the Officer-in-Charge and the constables were transferred from the police station.

Bolivia

Llamamientos urgentes

159. El 9 de junio de 2004, el Relator Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación con información recibida según la cual el Senado aprobó una ley de interpretación constitucional con el objetivo de asentar la vigencia del fuero militar. Se expresaron temores de que esta ley podría favorecer la impunidad de los miembros de las fuerzas armadas y evitar la investigación de las muertes y los daños ocurridos en febrero de 2003 durante manifestaciones reprimidas por miembros de las fuerzas armadas y la policía nacional. Tras estos hechos, al menos cuatro militares fueron formalmente imputados por la probable comisión de delitos de homicidio y grave daño calificado. El 19 de agosto de 2003, los militares imputados habrían interpuesto una excepción de incompetencia, alegando estar sometidos a las leyes militares y estar procesados por los mismos hechos ante la jurisdicción penal militar. El 6 de mayo de 2004, el asunto habría sido juzgado en revisión por el Tribunal Constitucional de Bolivia, que habría establecido que los alcances de la jurisdicción militar no comprendían actos de las Fuerzas Armadas en los cuales el derecho a la vida era vulnerado. El 8 de mayo, el Alto Mando Militar habría emitido un comunicado en el que habría advertido que el fallo del Tribunal Constitucional podría resquebrajar la unidad y estabilidad del Estado. Se habría reunido también con el Presidente del Gobierno. Como consecuencia de ese fallo, se habría iniciado un juicio por prevaricación contra los Magistrados del Tribunal Constitucional. Además, se aprobó en el Senado la mencionada ley interpretativa del artículo 209 de la Constitución, que consolidaría un fuero a favor de los militares en caso de ser procesados por delitos o violación de garantías. En el contexto de este llamamiento urgente, los Relatores Especiales también se refirieron a los llamamientos urgentes transmitidos por diversos mecanismos especiales de la Comisión de Derechos Humanos el 27 de enero de 2003 y el 15 de octubre de 2003.

160. Por carta de fecha 29 de julio de 2004, el Gobierno proporcionó detallada información sobre el juicio de los militares así como sobre el proyecto de ley interpretativo del artículo 209 de la Constitución política del Estado. El Gobierno señaló que no es competencia del poder ejecutivo interferir en el procedimiento a seguir en la aprobación de dicho proyecto de ley. Respecto al proceso de responsabilidades instaurado en contra de los magistrados del Tribunal Constitucional, el Gobierno indicó que se trataba de una acción prevista en la Ley N.º 2623 de fecha de 22 de diciembre de 2003, en la que se acude a un órgano jurisdiccional especial como es el Congreso Boliviano para enjuiciar a los magistrados del Tribunal Constitucional por delitos cometidos en el ejercicio de sus funciones. El Gobierno aseguró que los magistrados imputados gozarán de la presunción de inocencia de inocencia mientras no se pruebe su culpabilidad en sentencia ejecutoria y con valor de cosa juzgada y que tenían todos los derechos y garantías y derechos previstos por la Constitución y las leyes.

Brazil

Urgent appeals

161. On 30 January 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the sale of children, child prostitution and child pornography, regarding a number of **adolescents held at the Tatuapé Centre**, São Paulo State. According to the allegations received, they have complained of having been tortured by *monitores* (warders) in Units 5 and 12 after their transfer from the Franco da Rocha Fundação do Bem-Estar do Menor (FEBEM, Foundation for the Well-Being of Minors), which was closed down in December 2003. During his visit to Brazil in August 2000, the Special Rapporteur on torture visited the FEBEM centre (E/CN.4/2001/66/Add.2, paras. 44 to 53). Upon the arrival of the juvenile inmates at the Tatuapé Centre, they were beaten with sticks and bars and were forced to sit all day in their cells facing the walls, and beaten if they talked. They were forbidden to leave their cells to go to the bathroom and beaten if they soiled their clothes. *Monitores* are said to have continuously threatened and taunted the adolescents recently transferred from Franco da Rocha and monitored visits from relatives, so that detainees were unable to speak freely of the abuses they had suffered. Two adolescents in Unit 12 were told they would be beaten to death if they reported the abuses. During his visit to Brazil in November 2003, the Special Rapporteur on the sale of children, child prostitution and child pornography expressed his concerns on allegations of ill-treatment of adolescents detained in juvenile detention centres (E/CN.4/2004/9/Add.2, para. 112).

162. On 15 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson of the Working Group on Enforced or Involuntary Disappearances, regarding Mr. **Ridelmar Guedes de Sá**, age 29, District of Caetano II, Floresta, Pernambuco State, Mr. **Carlos Sideval Guedes de Sá**, age 36, Mr. **Paulo de Sá**, age 23, and Mr. **Valerio Gomes de Sá**, age 25, all living in District of Cohab. They are all landworkers, and members of the same family. According to the allegations received, on 31 May 2004, they went together in direction of Ibimirim town, near Floresta, had dinner in Ibirimin, and left the town between 8 and 9 p.m. to return home, but never arrived. On 2 June 2004, some relatives tried unsuccessfully to contact them on their mobile phones. On 4 June, relatives were told by a witness that the men had been seen handcuffed and being put into the back of three cars belonging to military police near Ibimirim on 31 May 2004. Their whereabouts are reportedly unknown since then. Their car has also disappeared. On 7 June 2004, their relatives went to the place where they had last been seen in order to collect more information and evidence. They found some plastic bags with teeth marks and batteries. The relatives also went to Floresta and Ibimirim Police Stations to report the disappearances. The Floresta Regional Police Chief undertook to conduct an investigation. A formal complaint was also filed with the Internal Disciplinary Office of the Social Defence Secretariat, and a letter sent to the State Prosecutor Office, informing them of the facts and requesting the close monitoring of the police inquiry, and protection measures for the victims' families. The reported disappearance of these four men may be related to the previous detention of Ridelmar Guedes de Sá, who was detained for 20 days in April 2002 in the town of Serra Ttalhada in connection with the death of a military policeman. During his detention, he was beaten and subjected to torture and ill-treatment, under the orders of a military policeman. Since his release, Rindelmar Guedes de Sá had been receiving death threats from policemen.

Observations

163. The Special Rapporteur on torture considers it appropriate to draw attention to the concerns expressed by the Committee on the Rights of the Child (CRC/C/15/Add.241, para. 40) about the gap between the 1997 Law on Torture, the Penal Code, and the Statute of Children and Adolescent (ECA) and its implementation, particularly in light of the significant number of reported cases of torture and ill-treatment of children.

Burkina Faso

Urgent appeals

164. Le 11 novembre 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, concernant **Mathieu N'do**, directeur de l'hebdomadaire « San Finna » et membre du bureau politique de l'Union nationale pour la démocratie et le développement (UNDD). Mathieu N'do aurait été arrêté le 5 novembre 2004 par les services de la Sécurité nationale à l'aéroport de Ouagadougou, alors qu'il rentrait de Côte d'Ivoire où il était allé suivre l'évolution des tensions entre les parties au conflit. Malgré le fait qu'aucune charge n'ait apparemment été retenue contre lui, M. N'do était toujours en détention au moment où l'appel urgent a été envoyé aux autorités.

Burundi

165. Par lettre en date du 10 mai 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, a informé le Gouvernement qu'il avait reçu les renseignements suivants :

166. **Fabiola** et sa sœur **Germaine** auraient quitté le camp de personnes déplacées de Kavumu, dans le Bujumbura-rural, où elles vivaient, pour aller chercher de la nourriture dans leurs champs situés dans la colline de Muyire, le 15 mai 2002. En arrivant, elles y auraient vu des militaires. Prise de panique, Germaine aurait cherché à fuir et un militaire l'aurait alors tuée par balle. Fabiola aurait, quant à elle, 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-sida.

E. S., une fille 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]).

L. N., une fille de 16 ans, après avoir assisté à un mariage, rentrait 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. Elle aurait déjà été violée trois mois auparavant par un

combattant du CNDD-FDD (Nkurunziza) qui se serait introduit à 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.

167. Par une lettre en date du 26 mars 2004, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels il n'existerait pas de prison dans la province de Kirundo, et qu'aussi bien les personnes arrêtées par la police de sécurité publique (PSP) que les personnes poursuivies par le parquet seraient détenues dans un cachot de police géré par des agents de la PSP. Par ailleurs, le Rapporteur spécial a reçu des renseignements sur les cas de torture ou mauvais traitements suivants, qui auraient eu lieu dans le cachot de police susmentionné ou dans le cachot de la brigade de gendarmerie de la province de Kirundo.

168. **Rwasa Zakari** et **Mbuzukongira**, tous deux accusés de meurtre, auraient été arrêtés le 30 janvier 2004 et incarcérés à la brigade de Ntega, où ils auraient été soumis à des actes de torture et autres formes de mauvais traitements avant d'être transférés à la brigade de Kirundo. M. Mbuzukongira se serait retrouvé avec le bras droit paralysé et une grosse blessure ouverte au pied droit. D'après les renseignements reçus, l'Office du Haut-Commissariat aux droits de l'homme au Burundi (OHCDHB) serait intervenu auprès du substitut du Procureur afin qu'il reçoive des soins médicaux.

169. **Jean Mpawenayo,** accusé de coups et blessures volontaires, aurait été arrêté et incarcéré le 7 février 2004 à la PSP de Kirundo. Avant son transfert de la colline de Cumva, commune de Kirundo, vers la PSP de Kirundo, il aurait été sévèrement battu par le chef de colline. Des traces de blessures auraient été visibles sur sa tête et son corps. D'après les renseignements reçus, il aurait été mis en liberté suite à l'intervention de l'OHCDHB.

170. **Chartière Sibomana** et **Ananias Ndacaylsaba**, accusés de coups et blessures volontaires, auraient été arrêtés et incarcérés le 3 février 2004 à la PSP de Kirundo. Avant d'être transférés à la PSP de Kirundo, à partir du secteur Renga, commune de Busoni, province de Kirundo, ils auraient été battus par le chef dudit secteur et des officiers de la police judiciaire de la commune de Busoni.

171. **Havyarimana**, accusé de tentative de meurtre et de vol qualifié, aurait été arrêté et incarcéré le 1er décembre 2003 à la brigade de Mukenke, commune de Bwambarangwe, province de Kirundo. Avant son transfert à la PSP de Kirundo, il aurait été battu par le commandant de brigade de Mukenke, qui lui aurait cassé le bras droit. Le délai de sa garde à vue aurait été largement dépassé. D'après les renseignements reçus, il aurait été mis en liberté suite à l'intervention de l'OHCDHB.

172. **Pascal Ngerageze**, accusé de vol qualifié, aurait été arrêté le 10 février 2004 à la brigade de Kirundo. Il y aurait été battu par le chef de secteur de Gikuyo et par un officier de la police judiciaire.

173. **Minani Samson**, accusé de vol qualifié, aurait été sévèrement battu par la population et le chef de secteur de Gatare, commune de Busoni, colline de Kigoma. Il aurait été atteint au dos par plusieurs flèches. L'OHCDHB aurait demandé sa mise en liberté pour qu'il puisse recevoir des soins médicaux.

174. Par une lettre datée du 12 mai 2004, le Gouvernement a indiqué que les faits étaient exacts et a transmis les informations complémentaires suivantes : **Jean Mpawenayo**, **Chartière Sibomana**, **Ananias Ndacayisaba** et **Samson Minani** ont été relaxés mais n'ont pas bénéficié de la réparation du préjudice subi. Quant à **Zacharie Rwasa**, **Mbuzukongira** et **Pascal Ngerageze**, ils ont été transférés à la prison de Ngozi. **Havyarimana** reste encore à la police de sécurité publique en infraction aux dispositions du nouveau Code de procédure pénale sur la garde à vue. La personne a largement dépassé les délais réglementaires de garde à vue et doit être libérée mais les auteurs de cette détention n'ont jusqu'à présent pas été poursuivis. Aucune plainte n'a été déposée au nom de ces victimes et le Ministère public qui devrait se saisir de ces cas ne l'a pas encore fait. Il n'y a donc pas eu d'expertise médicale des victimes, ni de sanction pénale ou disciplinaire à l'encontre des responsables dont l'identification a été confirmée par les investigations menées.

175. Le Gouvernement a par ailleurs confirmé que des pratiques de torture existent dans les services de police, de l'armée, de la gendarmerie, de la Sûreté (documentation) et dans les administrations publiques. Selon le Gouvernement, ces pratiques sont répandues surtout dans des endroits plus ou moins cachés et /ou d'accès difficile, et commises soit pendant les enquêtes préliminaires, soit sur les lieux d'arrestation. Bien que la Constitution de transition interdise formellement la torture, celle-ci n'est pas encore érigée en infraction pénale intrinsèque et punissable par la loi, et les victimes de la torture n'ont pas jusqu'à présent de piliers juridiques internes solides et efficaces pour mener une quelconque action en vue d'obtenir que les coupables soient sanctionnés et les victimes indemnisées. Peu de plaintes pour torture sont enregistrées auprès de la justice. Quelques cas ont donné lieu à des sanctions, que se soit dans les corps de police, de la gendarmerie, de la Sûreté ou de l'administration du territoire mais les sanctions infligées sont souvent de loin inférieures à la gravité des infractions commises. Le Code pénal burundais est lacunaire en matière de réparation des torts subis.

176. Par une lettre en date du 21 octobre 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels les femmes burundaises continueraient d'être victimes de violence sexuelle et de traitements dégradants.

177. 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 seules 64 femmes auraient porté plainte. 38 cas de viol auraient également été recensés dans la province de Bubanza. Quatre des victimes auraient été âgées de moins de 10 ans, et sur ces 38 cas, 15 seraient attribués aux membres des forces armés. Entre mai et août 2003, 60 cas de viol de femmes de 9 à 77 ans auraient été traités à l'hôpital de province de Ruyigi.

178. 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 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 des 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.

179. S'agissant du Ministère public, celui-ci ne ferait pas usage de tous ses pouvoirs pour lutter contre les violences sexuelles, et, 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 ces agresseurs, celle-ci ne pourrait porter plainte. Faute d'assistance judiciaire, les femmes victimes de violence sexuelle 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 serait condamné, la victime n'obtiendrait que rarement réparation.

180. Outre les séquelles physiques de ces brutalités – blessures, grossesses, infections dues au VIH-sida et autres maladies, voire la mort –, les victimes de viol risqueraient d'être exclues de la société, 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 les médicaments ne soient tout simplement pas disponibles.

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

182. **Adèle N.**, 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.

183. **R. N.**, une fillette 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, **Désirée,** par deux hommes avant d'être elle-même déshabillée, emmenée à l'extérieur, menacée de mort et violée par deux hommes.

184. **Marguerite Hatungimana**, 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.

185. **Odette**, une femme de quarante-deux ans, aurait été violée par un militaire en 2002 alors qu'elle quittait le camp de personnes déplacées où elle vivait, dans Bujumbura-rural. Informé de ce viol, son mari l'aurait abandonnée avec ses enfants.

186. 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 de 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, celles-ci ne seraient effectivement à l'écart des hommes que durant la nuit.

Appels urgents

187. Le 29 septembre 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, qui concerne **Pierre Claver** et **Célestin Nsavyimana**. MM. Pierre Claver et Célestin Nsavyimana, respectivement président et trésorier de la Confédération des syndicats du Burundi (COSYBU), auraient été arrêtés le 24 septembre 2004 au siège de leur organisation à Bujumbura. Deux ordinateurs auraient été saisis au cours de leur arrestation. Le 29 septembre 2004, les deux syndicalistes étaient détenus dans les locaux de la police présidentielle et n'avaient toujours pas eu accès à leur avocat. Ces arrestations seraient liées à un mémorandum critique sur l'adoption le 17 septembre 2004 d'une nouvelle constitution par le Parlement burundais que Pierre Claver et Célestin Nsavyiman avaient soumis à signature aux membres de la COSYBU. Dans ce document, les deux syndicalistes s'inquiétaient du rôle et de la place des institutions garantissant les libertés syndicales, les libertés individuelles et la stabilité politique.

Cameroon

188. Par une lettre en date du 30 mars 2004, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements sur des cas de torture ou mauvais traitements supposément commis par des autorités traditionnelles, dont la désignation par les coutumes locales serait sanctionnée par l'administration territoriale. En particulier, le Rapporteur spécial a reçu des renseignements sur les cas individuels suivants :

189. **Paul Djafri**, un cultivateur du quartier de Mayo Dadi III, dans le canton de Tchéboa, aurait été détenu dans une cellule de Ngong en décembre 2001, sous les ordres du lamido de Tchéboa à la suite d'une dispute avec un jeune berger. Il aurait par la suite été transféré à la prison de Tchéboa. Il aurait été violemment battu à la plante des pieds, aux genoux et aux cuisses. Il aurait finalement été remis en liberté suite à l'intervention de proches. Il aurait porté plainte contre le lamido de Tchéboa auprès du Procureur de la République le 28 février 2002.

190. **Eloi Njami**, un cultivateur du quartier de Mayo Dadi III, dans le canton de Tchéboa, aurait été arrêté par le messager du chef de Tchéboa et emmené les mains liées dans le dos dans une cellule de Tchéoba, où il serait resté trois jours. Il y aurait été battu à la plante des pieds, aux cuisses et aux genoux. Il aurait finalement été libéré moyennant une rançon. Il aurait porté plainte auprès du Procureur de la République le 28 février 2002.

191. Par lettre en date du 7 avril 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels **Mosses Punnsa Komban**, militant du Southern Cameroon National Council (SCNC), un mouvement sécessionniste anglophone, aurait été arrêté par ordre d'un préfet à son domicile le soir du 14 septembre 2001. Il aurait été maintenu en détention durant deux mois dans de mauvaises conditions et aurait été battu à plusieurs reprises. Il aurait finalement été transféré dans un hôpital, où il serait resté une semaine, et, par la suite, présenté devant un tribunal qui aurait ordonné sa libération. Le 11 septembre 2002, il aurait à nouveau été arrêté par des gendarmes et emmené à la compagnie de gendarmerie de Kumbo. Il aurait été transféré à la brigade de Jakiri avec un autre militant du SCNC où il serait resté deux jours avant d'être ramené à Kumbo, où il aurait été entendu par un magistrat. Il aurait par la suite été emmené dans la ville de Bamenda et exhibé sur la chaîne de télévision nationale avec des pancartes sur lesquelles auraient été inscrits des slogans tels que « tueurs de gendarmes ». Comme il aurait refusé de les porter, il aurait été battu puis remis en cellule, les mains enchaînées derrière le dos. Il aurait été conduit à la prison de Bafoussa, où il aurait passé sept mois dans des cellules surpeuplées. Il aurait finalement été remis en liberté quatre jours après avoir reçu la visite du président du tribunal militaire.

192. Par une lettre en date du 8 avril 2004, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements sur des cas de torture ou mauvais traitements supposément commis par des autorités traditionnelles, dont la désignation par les coutumes locales serait sanctionnée par l'administration territoriale. En particulier, le Rapporteur spécial a reçu des renseignements sur les cas individuels suivants :

193. **Paul Djafri** et **Eloi Njami,** cités dans la communication envoyée précédemment par le Rapporteur spécial (cf. par. 186 et 187 ci-dessus).

194. **David Dilwa**, employé dans un hôtel de Garoua appelé la « Tempête du Sahel », aurait été soupçonné, comme d'autres collègues, d'avoir volé une somme de 570 000 francs CFA ; arrêté le 12 octobre 2001 par un sergent et le percepteur de Mading-Ring, il aurait été conduit à la brigade de gendarmerie territoriale de Garoua. Il aurait été remis en liberté peu après, mais le sergent et le percepteur l'auraient amené auprès du lamido de Garoua, un chef traditionnel. Avec un de ses collègues, ils y seraient restés durant une semaine, puis, le 19 octobre 2001, auraient été transférés chez le lamido de Tchéboa, puis emmenés chez les représentants de ce lamido à Ngong. Durant toute cette semaine, David Dilwa aurait été sévèrement battu. Il aurait finalement proposé d'aller chercher de l'argent chez sa sœur, **Titandi Timsou**. Le 19 octobre 2001, celle-ci aurait été amenée avec son frère chez le lamido de Tchéboa, qui l'aurait accusée des mêmes griefs. On lui aurait alors attaché les pieds aux mains avant de glisser une barre de fer entre ses membres ainsi rassemblés. Puis, elle aurait été frappée sans relâche, au point de saigner abondamment. Son frère aurait subi le même traitement. Son épouse serait venue le voir le 22 octobre 2001 et l'aurait trouvé dans un piteux état, ne pouvant plus s'alimenter et vomissant du sang. Titandi Timsou aurait finalement été libérée le 2 novembre 2001. David Dilwa serait décédé des suites de ses blessures, mais sa famille n'aurait pas eu accès à sa dépouille.

195. Le Rapporteur spécial a également reçu des renseignements selon lesquels un grand nombre de détenus, y compris des mineurs, de la prison centrale de Douala seraient décédés dans le courant de la première moitié de l'année 2003 en raison des conditions de détention insalubres et du manque de soins médicaux. Parmi la liste de défunts, qui a été mise à disposition du Rapporteur spécial, se trouvent les personnes suivantes :

196. **Alphonse Nzongang**, prévenu depuis le 16 décembre 2002, serait décédé le 26 février 2003 suite à des tortures supposément infligées après une tentative d'évasion.

197. **Armand Tchakounté**, prévenu depuis le 27 septembre 2002, serait décédé le 26 février 2003 suite aux tortures qui lui auraient été infligées au commissariat avant son arrivée à la prison centrale.

198. **Victor Foko**, prévenu depuis le 2 mai 2003, serait décédé le 18 mai 2003 suite aux tortures qui lui auraient été infligées lors de son arrestation.

199. **Flobert Mvondo**, condamné et en prison depuis le 12 juillet 2002, serait décédé d'un ulcère le 19 février 2003.

200. **Samuel Dipito**, prévenu depuis le 26 septembre 2002, serait décédé le 19 février 2003 des suites d'une diarrhée et d'une hernie.

201. **Romain Kemkeu**, condamné, serait décédé le 21 mars 2003 suite aux complications d'une forte toux accompagnée d'un brusque amaigrissement.

202. **Gérard Azeh**, condamné, en prison depuis le 4 janvier 2002, serait décédé le 29 avril 2003 des suites d'une toux aggravée et de fortes diarrhées.

203. **Eyoum Mbenda**, condamné, en prison depuis le 4 avril 2002, serait décédé le 15 mai 2003 suite à un arrêt du traitement de sa tuberculose.

204. **André Ngounou**, condamné à perpétuité, serait décédé le 24 mai 2003 suite à une forte toux et à un brusque amaigrissement.

205. **Fomen Ketchemen**, condamné, en prison depuis le 12 janvier 2001, serait décédé le 2 juin 2003 suite à une forte toux et à un brusque amaigrissement.

206. **Robert Sando**, condamné, en prison depuis le 8 janvier 1997, serait décédé le 2 juin 2003 suite à une forte toux et à un brusque amaigrissement.

207. **Marcel Djob Goressia**, prévenu depuis le 26 septembre 2002, serait décédé le 4 juin 2003 d'une forte toux.

208. **René Kudi Batche**, condamné, en prison depuis le 5 janvier 2001, serait décédé le 10 juin 2003 d'une toux sèche.

209. **Gerandel Mogang**, prévenu depuis le 11 décembre 2002, serait décédé le 11 juin 2003 d'une douleur gastrique accompagnée de vomissements.

210. **Bouba Amadama**, 16 ans, prévenu depuis le 25 octobre 2002, serait décédé le 9 août 2003 suite à une forte toux et à un brusque amaigrissement.

211. **Dieudonné Tcheundji**, prévenu depuis le 6 août 2003, serait décédé le 12 août 2003 de paludisme et diarrhée.

212. **Elvis Kouma**, 17 ans, prévenu depuis le 8 janvier 2003, serait décédé le 14 août 2003 d'une pneumonie.

213. **Nkomba Maloka**, prévenu depuis le 4 juillet 2003, serait décédé le 16 août 2003 de toux et diarrhée.

214. **Jean-Pierre Komon**, prévenu depuis le 18 juillet 2003, serait décédé le 26 août 2003 suite à une forte toux et à un brusque amaigrissement.

215. **René Ekoulé**, prévenu le 14 août 2003, serait décédé le 29 août 2003 suite à une forte toux et à un brusque amaigrissement.

216. Par une lettre en date du 13 avril 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels **Martial Mbong** aurait été arrêté le 4 juillet 2002 et emmené dans une cellule de la police judiciaire à Douala. Il y serait décédé le 7 juillet 2002 des suites d'actes de torture. La police aurait amené son corps à la morgue sans informer la famille du décès. Le 8 juillet 2002, alors qu'un membre de sa famille se serait rendu au poste de détention pour le nourrir en cellule, il aurait été informé par un autre détenu de sa mort et des tortures subies. Cependant, la police aurait nié ce décès, et la

commissaire (dont le nom est connu des Rapporteurs spéciaux) aurait indiqué qu'il n'était pas détenu à cet endroit. La famille se serait alors dirigée chez le Procureur de la République afin que des visites des morgues soient organisées. La dépouille de Martial Mbong aurait finalement été retrouvée par sa mère à l'hôpital provincial de Douala. Des agents de police y auraient laissé le corps afin qu'un médecin procède à une autopsie à la demande de la commissaire précitée. Une contre-expertise aurait prouvé que le décès avait été provoqué par l'usage de la torture en cellule. La mère du défunt aurait été avertie par la commissaire de ne plus trop remuer cette affaire. Depuis, le dossier judiciaire n'aurait pas avancé, la famille serait renvoyée d'une autorité à une autre, les résultats des autopsies n'auraient pas été transmis à un magistrat, et la contre-expertise ne serait plus disponible.

Appels urgents

217. Le 4 juin 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, et la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, qui concerne **Madeleine Afité**, présidente de l'Action des chrétiens pour l'abolition de la torture (ACAT) à Douala et Me **Essaïe Bisseck,** président de l'ACAT-Cameroun. Selon les informations reçues, le 3 juin 2004, Madeleine Afité aurait reçu à son bureau la visite de Me Essaïe Bisseck. Ce dernier lui aurait remis une convocation, lui signifiant qu'ils étaient tous deux convoqués au commissariat spécial de la ville de Douala. La convocation n° 02/04, datée du 3 juin 2004 et signée de la main d'un commissaire de police, dont le nom est connu des Rapporteurs spéciaux, lui demandait de se rendre au commissariat dès sa réception, aucun motif n'étant mentionné. Des craintes ont été exprimées que cette convocation ne soit en relation avec leurs activités de défense des droits de l'homme, et, en particulier, leurs efforts pour lutter contre la torture.

218. Le 25 juin 2004, le Rapporteur spécial a envoyé un appel urgent, concernant la situation de **Bernard Afuh Weriwo**. Dans la nuit du 13 mai 2004, Bernard Afuh Weriwo aurait été accusé du vol d'un vélo et conduit devant des policiers et gendarmes qui se trouvaient à un contrôle fixe et mixte sur la route Kumba – Manfé, dans le village d'Ikiliwindi. Sans avoir mené la moindre investigation, les policiers l'auraient aspergé de pétrole et aurait mis le feu à son corps. Sauvé par une famille environnante, il aurait été interné à l'hôpital de district de Kumba à 134 km de Douala, où il aurait reçu des soins inadaptés étant donné la gravité de ses blessures dont attestent les photographies transmises au Rapporteur spécial. Le 25 juin 2004, sa famille ne pouvant plus payer les soins, aucun traitement ne lui était plus administré. Les médecins de l'hôpital de Kumba auraient recommandé son transfert immédiat à l'hôpital de Douala, l'un des rares hôpitaux à détenir des installations adéquates pour des cas de brûlés aussi graves, mais sa famille ne pouvait trouver les fonds pour payer un tel transfert.

Canada

219. By letter dated 15 September 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Souleymane Camara**, a 34-year-old Malian national. He was detained by members of the Edmonton Police Service (whose names are known to the Special Rapporteur) on 9 and 13 June 2002, and again on 12 November 2002; and then was at the Edmonton Remand Centre between 19 May and 6 June 2003, and on 9,

14, and 19 July 2003. He was detained on suspicion of assault, was forced to sign a confession, was beaten by police, sustained injuries to his head and knee, and did not receive a medical examination. In the Edmonton Remand Centre, he was denied food and water between May and June 2003, and was exposed in a state of undress to female inmates and staff. He was deported on 9 September 2003, before his trial date, which was scheduled for 18 September.

220. By letter dated 17 November 2004, the Government informed that the Government of Alberta treats these allegations seriously and has in place legislation and policies to ensure that persons arrested, detained or imprisoned are treated with dignity and respect for their human rights. In order for the Government of Alberta and the Edmonton Police Services to undertake further investigation of the allegations, the Special Rapporteur is requested to assist in obtaining the complainant's written consent. The Government provided materials prepared by the Government of Alberta describing various domestic complaint mechanisms available. Information was also provided on the various policies and standard operating procedures, pertinent to the allegations, which provincial police officers and correctional workers are required to follow in carrying out their duties.

Chad

221. Par lettre datée du 1er mars 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, et la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme, a informé le Gouvernement qu'il avait reçu des renseignements la situation de **Tchanguiz Vathankha**, un homme d'origine iranienne installé au Tchad depuis de nombreuses années, directeur de la radio privée Brakoss à Moissala, qui diffuse des émissions relatives aux droits de l'homme. Le 9 février 2004, Tchanguiz Vathankha aurait été arrêté suite à la diffusion sur les ondes de sa radio d'une interview au chef du parti de l'Union nationale pour le développement et le renouveau (UMDR), traitant de la situation socioéconomique au Tchad. Tchanguiz Vathankha aurait été détenu pendant 48 heures à la prison de la préfecture de Moissala, où il aurait été torturé par la police locale. Les coups qu'il aurait reçus à la tête, aux jambes et au thorax auraient provoqué une hémorragie à l'œil et des dommages à la rétine. Cependant, il n'aurait pas reçu de soins médicaux pendant sa détention. Il aurait été remis en liberté le 11 février 2004 dans un état de santé jugé critique par un médecin de l'hôpital de Moissala qui l'aurait examiné peu après. En outre, Radio Brakoss aurait été fermée sur ordre du préfet du Bahr Sara puis rouverte le 16 février 2004 avec une programmation limitée.

Chile

222. Por carta de fecha 5 de julio de 2004, el Relator Especial notificó al Gobierno que había recibido información sobrel los Sres. **Jorge Mateluna**, **Hardi Peña**, **Jorge Espínola** y **Esteban Burgos**, cuatro presos de la cárcel de Alta Seguridad de Santiago que habrían sido trasladados al Hospital Penitenciario por personal de la Unidad Especial de Alta Seguridad y de la Unidad de Servicios Especiales Penitenciarios (USEP) el 10 de junio de 2004. Durante el traslado habrían sido reducidos mediante golpes y esposados, a pesar de encontrarse físicamente débiles tras mantener una huelga de hambre de 61 días. En el hospital habrían

sido sedados e hidratados contra su voluntad y habrían sido mantenidos esposados a sus camas.

Llamamientos urgentes

223. El 22 de octubre de 2004, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General para los defensores de los derechos humanos, sobre la situación de **Juana Calfunao Paillalef**, líder de una comunidad indígena mapuche del municipio de Cunco de la IX Región. Juana Calfunao Paillalef es miembro fundador de la organización no gubernamental Comisión Ética Contra la Tortura y trabaja en la promoción y protección de los derechos de su comunidad. Su caso ya fue objeto de un llamamiento urgente enviado el 23 de agosto de 2004 por la Representante Especial del Secretario General para los defensores de los derechos humanos y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas. Según las nuevas informaciones recibidas, el 26 de septiembre de 2004 un funcionario de la Cooperación Nacional de Desarrollo Indígena (CONADI) habría amenazado a Juana Calfunao Paillalef y a su hija de 17 años diciéndoles: "¿Quieres que te queme viva ahora?" y "Voy a buscar el arma para mataros". Se alega también que ese mismo día, alguien habría disparado varias veces contra la vivienda provisional en la que Juana Calfunao y su familia se refugian después del presunto incendio provocado que habría resultado en la destrucción de su casa y la muerte de su tío.

224. Por carta de fecha 27 de diciembre de 2004 el Gobierno informó en primer lugar de que en el año 2000 Juana Calfunao fue arrestada en dos ocasiones. En la primera de ellas, los hechos denunciados, a saber, agresión física por parte de los carabineros con resultado de aborto espontáneo, no pudieron ser comprobados y la correspondiente denuncia estaba siendo objeto de investigación por parte de la Fiscalía Militar. Respecto a la segunda detención, los hechos denunciados estarían siendo igualmente objeto de investigación por parte de la Fiscalía Militar. El Gobierno informó asimismo de que a raíz del ataque realizado en contra de la vivienda de la Sra. Calfunao en junio de 2004 y en el cual resultó muerto el Sr. Basilio Coñoenao, se interpusieron sendas querellas por los delitos de homicidio, en contra de quienes pudieran resultar responsables del mismo, y por delito de obstrucción a la justicia en contra de un ciudadano cuya identidad es conocida por el Relator Especial. La Fiscalía habría iniciado las diligencias pertinentes al caso.

Observations

225. El Relator Especial considera apropiado llamar la atención sobre ciertas cuestiones reflejadas como motivos de preocupación por el Comité contra la Tortura (CAT/C/CR/32/5 párr.6). Al Comité le preocupan en particular: las denuncias sobre la persistencia de malos tratos a personas, en algunos casos equivalentes a torturas, por parte de carabineros, policía de investigaciones y la gendarmería y el hecho de que no se proceda a una investigación completa e imparcial de esas denuncias; la definición de tortura del Código Penal que no se ajusta plenamente al artículo 1 de la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, y no incorpora suficientemente los propósitos de tortura y

la aquiescencia de funcionarios públicos; el grave problema de hacinamiento y otras condiciones inadecuadas de detención en los centros de privación de libertad y la información de que esos lugares no se inspeccionan sistemáticamente; la falta de datos desglosados sobre denuncias presentadas, los resultados de las investigaciones y el procesamiento relacionados con las disposiciones de la Convención y la insuficiente información sobre la aplicación de la Convención en el ámbito de actuación de las fuerzas armadas.

China

226. 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 violence against women, the Special Rapporteur notified the Government that he had received allegations concerning **Z. Y.**, age 4. 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 (one of whom is known to the Special Rapporteurs). Both of her parents had been arrested previously because they are practitioners of Falun Gong. In February 2002, her father, Zhang Hongxu was sent to Xishanping Labor Camp, where he was tortured, and suffered a broken nose, missing teeth, and injured ribs. He is now detained at an undisclosed location. On 23 December 2003, Z. her mother, Wu Yongmei, was detained and tortured. She was released after being on a hunger strike for 54 days. Upon release, she began to search for her daughter and her current whereabouts are unknown.

227. By letter dated 8 July 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning:

228. **Sun Yanqing**, an employee of the Mechanical Maintenance Facility, Xuanhua District Steel Works, Zhanjiakou City, Hebei Province. In 2000, she was arrested in Beijing when she went to appeal for an end to the persecution of Falun Gong. Her condition became critical after she was tortured. She was sent back to her home town where she was hospitalized and died a few days later.

229. **Chen Aizhong**, age 33, Beixinbao Town, Huailai County, Zhangjiakou City, Hebei Province. On 20 July 1999, Mr. Chen, together with his family, went to Beijing to appeal for an end to the persecution of Falun Gong. On 12 September 2000, he was arrested and sent to the Sixth Brigade of Hehuakeng Labour Camp, Tangshan City, where he was tortured. He died on 20 September 2000.

230. **Zhu Yourong**, a Falun Gong practitioner, Xuanhua District, Zhangjiakou City, Hebei Province. She was tortured at the Women's Second Brigade, First Forced Labour Camp, Hebei Province. She died at the camp on 16 December 2000.

231. **Fan Yaxiong,** age 42, Chairwoman for Teaching and Guidance, High School No. 15, Zhangjiakou City, Hebei Province. In May 2000, she was arrested in Beijing while demonstrating against the persecution of Falun Gong. Officials of the Zhangjiakou "610 Office" (the agency specifically created to persecute Falun Gong practitioners) sent her to the Shalingzi Mental Hospital where she was injected with nerve-damaging drugs. In June 2000,

she was sentenced to three years of forced labour education and was tortured at the Tangshan Forced Labour Camp. She was released at the end of 2000 and died at home shortly afterwards.

232. **Zhang Zhigen**, age 53, a Falun Gong practitioner, and working in the Zhangjiakou Embroidery Factory, Zhanjiakou City. In April 2000, she was arrested when she went to Beijing to appeal for an end to the persecution of Falun Gong. She was detained by the "610 Office" deputies at the Xuanhua District Detention Centre, Zhanjiakou City, for 17 days where she was tortured. One of her legs became infected and had to be amputated. On 6 October 2000, she went to Beijing and was re-arrested. She was transferred to the Shisanli Zhangjiakou City Detention Centre and tortured for nine days. She was released and died on 25 February 2001.

233. **Jiang Shuhua**, age 50, a Falun Gong practitioner, Shihuiyao village, Yangtian Township, Chicheng County, Zhangjiakou City, Hebei Province. On 8 February 2002, she was arrested by the police, and died on 3 March 2002 in police custody.

234. **Shen Lizhi**, age 33, Shenyang City, and his wife **Luo Fang**, Leshan City, Sichuan Province. On 1 February 2002, They were arrested on Bus No. 75 by police officers from Yingmenkou Police Station, Chengdu City. The police claimed that at the time of their arrest the two persons had in their possession materials relating to the persecution of Falun Gong. They were detained at the Chengdu Detention Centre. Shen Lizhi was tortured after his arrest and died on the afternoon of 3 March 2002 at Qingyang District People's Hospital. The police notified his parents one year later, on 3 March 2003. Luo Fang was eight months pregnant at the time of her arrest, and an official of the "610 Office" forced her to have an abortion. On 8 May 2002, she was released but was arrested again on 5 December. She was tortured and sentenced to 12 years in prison. Since August 2003, she has been held at the Chuanxi Prison, Hongan Town, Longquan, Chengdu City.

235. **Liu Haibo**, a 34 year-old Falun Gong practitioner, and a doctor at the Luyuan District Hospital, Changchun City, Jilin Province. On 11 March 2002, police from the Kuancheng District Police Station in Changchun City abducted him from his home and tortured him to death. He died at the 120 Emergency Centre, on 12 March 2002.

236. **Liu Yuqing**, age 40, Wanghua district, Fushun City, Liaoning Province. She went to Beijing to appeal to the Government to stop the persecution of Falun Gong, and on 21 December 2000, she was arrested, detained and tortured. After she was released, on 15 February 2001, three police officers from the Putun Police Station, Wanghua district, dragged her down from the third floor of her work unit and took her to the police station. She was then sent to the Fushun City Detention Centre, and 2 weeks later she was transferred to the Wujiabao Labour Camp, Fushun City, where she was tortured again. She was taken home by her family on 11 April 2001 where she died on 13 April 2002.

237. **Song Cuiling**, age 52, Zhangjiakou City, Hebei Province. On 5 May 2002, she was arrested at Tiananmen Square while she was appealing for an end to the persecution of Falun Gong. She was sent to the Zhangjiakou Detention Centre where she was subjected to torture. She went on a hunger strike to protest the persecution and was tortured to death on 20 May 2002.

238. **Yin Ling**, age 34, No. 597 Farm, Baoqing County, Heilongjiang Province. On 28 December 2001, the Chief of the No. 597 Farm Police Station and several other policemen took her away. She was sentenced to three years of forced labour in the Jiamusi City Labour Camp. She began a hunger strike on 28 October 2002 to protest the detention. She was force-fed for a long time, tortured and handcuffed to her bed all day. Her family was instructed to take her home on 13 November 2002 and she died soon afterwards.

239. **Xue Xia**, age 33, Jiejiatun village, Xingtai City, Hebei Province. On 1 January 2000, she went to Beijing to appeal to the Government to stop the persecution against Falun Gong, was arrested and sentenced to three years of forced labour at Shijiazhuang Labour Camp. She was beaten in detention and force-fed unknown drugs. She was released in May 2001 on medical bail as she was on the verge of death. On 27 September 2002 she was brought back to the labour camp, along with her mother, for questioning. On 4 January 2003 she was sent to Xingtai City for medical treatment and died on 21 February 2003.

240. **Chen Hongping,** a 32-year-old Falun Gong practitioner, Huailai County, Zhangjiakou City, Hebei Province. In 2001, she was arrested and beaten, along with her sister by the Donghuayuan police. She was sent to the Gaoyang Labour Camp, subjected to further torture, as well as round-the-clock brainwashing against her belief in Falun Gong. She died on 5 March 2003 upon her release.

241. **Yu Yongquan,** age 45, employee of the Daqung City No. 2 Rice Mill, Daqing City, Heilongjiang Province. On 11 May 2002, he was arrested by police from the Ranghulu District Police Station and Chuangxin Police Station and sent to the Ranghulu District Detention Centre. He was charged with making Falun Gong materials, and was sentenced to 10 years in jail on 22 September 2002 by the Ranghulu District Court. He was detained in the Hongweixing Jail, Daqing City, where he was tortured. On 8 March 2003, he was sent to the prison hospital for emergency treatment and died the same day.

242. **Chen Xiangrui**, a 29-year-old Falun Gong practitioner, Hengyang City, Hunan Province. On 11 March 2003, a group of policemen led by the head of the National Security Team, Hengyang City Police Station, entered his home, beat and kicked him, dragged him out of the house and into a police van. He was subjected to torture in the police station. He was sent to a hospital the next morning and died soon afterwards. The autopsy revealed that his internal organs had been damage as a result of the beatings.

243. **Gao Shuhua**, age 49, Weicheng district, Weifang City, Shandong Province. On 14 March 2003, she was arrested while distributing materials about the persecution of Falun Gong. She was detained in the Weicheng Detention Centre for 13 days. During this time she went on a hunger strike to protest her imprisonment and was force-fed by guards. She died on 26 March 2003.

244. **Li Jianhou,** a 67-year-old Falun Gong practitioner, Nanchong City, Sichuan Province. She was tortured to death on 27 March 2003 in the Deyang Prison, Sichuan Province.

245. **Li Ying**, Wanghua district, Fushun City, Liaoning Province. On 31 March 2003, she was arrested by police from the Public Security Bureau, Wanghua district, and the local police station. She was taken to the No.1 Division of the Fushun City Public Security Bureau, where she was tortured. She died on 2 April 2003.

246. **Zhao Chunying**, a 56-year-old Falun Gong practitioner, Jixi City, Heilongjiang Province. On 15 April 2003, she arrested and sent to the Jixi City No. 2 Detention Centre. On 10 May 2003, her family was notified of her death. Two autopsies were carried out and signs of torture were found. Her family tried by different means to bring the perpetrators to justice in the past few months but without any results.

247. **Yang Yufang**, a 47-year-old Falun Gong practitioner, Dongyaozi village, Qiaoxi district, Zhangjiakou City, Hebei Province. On 17 May 2003, she was arrested and detained at the Shisanli Detention Centre, Zhangjiakou City, where she was tortured. She died on 16 June 2003.

248. **Sui Guangxi** and his wife, both Falun Gong practitioners, Xiangyangling village, Niuxibu Township, Laixi City, Shandong Province. On 17 September 2002, they were dragged into a police van and taken to the Sanjiaocun Elementary School where they were held for four days before they were transferred to the Xinzhuang "610 Office", Laixi City. They were forced to listen to daily broadcasts against Falun Gong. As Sui Guangxi refused to cooperate, the police subjected him to various forms of torture. He escaped 20 days later and died on 4 July 2003 in the Pingdu First People's Hospital.

249. **Cao Ping**, age 40, Caojiaba, Jiulong Town, Linshui County, Sichuan Province. In May 2001, he was arrested while distributing Falun Gong flyers and was detained at the Linshui County Detention Centre. He was beaten by officers from Linshui County Police Station and from Chengbei Police Station. He was sentenced to four years in Deyang Jail, Sichuan Province. He was beaten and tortured, as a result of which his internal organs were damage. He was sent to a hospital and diagnosed as "untreatable". The authorities ordered his family to take him home on 27 May 2003 and he died on 17 July 2003.

250. **Bai Xiaojun**, age 35, a professor at the Northeast Normal University, Jilin Province. He was sent to a labour camp in Chaoyanggou because he had gone to Beijing to appeal for an end to the persecution of Falun Gong. He was beaten to death while in custody and died on 18 July 2003.

251. **Tan Chengqiang**, Hongcheng village, Handian Town, Shuangcheng City, Heilongjiang Province. On 18 May 2003, he was arrested by the "610 Office" in Shuangcheng City, and held in the Second Detention Centre, Shuangcheng City. He went on a hunger strike to protest his detention, was force-fed, and was subsequently transferred to a hospital. The "610 Office" ordered his family to take him home where he died a on the evening of 19 July 2003.

252. **Tian Junlong**, age 45, Majiatun, Wuyi Township, Yitong County, Jilin Province. In the late 2002, he was arrested and sent to the Weizigou Labour Camp for having distributed materials on the persecution of Falun Gong. He was transferred three months later to the Chaoyanggou Labour Camp, Changchun City. Mr. Tian was tortured in both places, and sent

home on 1 September 2003 because his condition deteriorated. He died on 21 September 2003.

253. **Lu Bingshen**, age 39, Caikulou area, Ranghulu District, Daqing City, Heilongjiang Province. In October 2000, he was arrested by the police while he was distributing material about the persecution of Falun. He was sentenced to two years' imprisonment and sent to the Daqing City Labour Camp. On the afternoon of 20 October 2003, he was tortured until he became unconscious. He was then sent to the Daqing City People's Hospital for emergency treatment where he died on 21 October 2003.

254. **Yan Hai**, a 37-year-old farmer and Falun Gong practitioner, Tumu village, Tumu Township, Huailai County, Zhangjiakou City, Hebei Province. On 30 October 2002, he was arrested at his home by policemen from Langshan Police Station for practising Falun Gong. He was subjected to various types of psychological and physical torture at the Huailai County Detention Centre, including brainwashing in an attempt to force him to give up his practice of Falun Gong. On 14 November 2003, he was transferred to the Shisanli Detention Centre in poor condition. On 22 November 2003, he was sent to the 251 Hospital where he died on 24 November 2003. On 27 November, his family went to the hospital to view his body; more than 10 policemen were standing guard and did not leave the family alone with the body.

255. **Zhang Changming**, age 50, a Falun Gong practitioner, Shuangyashan City, Heilongjiang Province. He was arrested and sent to the Jiamusi Labour Camp in Heilongjiang Province where he was beaten to the point of death. He was taken to a hospital for emergency treatment but doctors refused to treat him. Mr. Zhang was sent back to his home where he died as soon as he arrived.

256. 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 right to freedom of opinion and expression, the Special Rapporteur on the right to health and the Special Rapporteur on violence against women, the Special Rapporteur expressed 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 of the rule of law. Reports indicate that the 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 "6-10 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 by 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".

257. By letter dated 26 November 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on freedom of religion or belief, the Special Rapporteur notified the Government that he had received allegations concerning Ms. **Jiang Zongxiu**, age 34, Tongzi county, Guizhou province. On 17 June 2004, she was arrested while she and her mother-in-law were distributing some Christian texts and Bibles in a local market place. Both of them were sentenced to 15 days administrative detention for their suspected activities of "spreading rumours and disturbing the social order." On 18 June around 2 p.m., at the Public Security Bureau, Tongzi County, she was beaten to death during an interrogation. No steps have been taken to investigate the case. An autopsy result issued by the local government claimed that Ms. Jiang died of heart failure.

258. By letter dated 30 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Zhang Peiqi**, Mingyue Township, Antu County, Jilin Province. On 20 March 2004, he was arrested and detained by policemen of the Antu County police station because he practices Falun Gong. He was taken to Haigou Police Station by several policemen (whose names are known to the Special Rapporteur) and tortured for seven days. He was subjected to the "tiger bench"; his hands and feet were shackled, and he was beaten with hard plastic pipes, as well as a plastic baton, on his head feet and legs; and his hair was pulled.

Urgent appeals

259. On 8 January 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, regarding **Cui Suzhen**, age 61, Shenze County, Shijiazhuang City, Hebei Province. According to the allegations received, she was detained in the Shijiazhuang Labor Camp because she practices Falun Gong. On 8 April 2001, she was transferred to the Gaoyang Labor Camp, Hebei Province. She went on a hunger strike to protest the treatment received, and was force-fed human excrement on three separate occasions, and afterwards suffered from serious diarrhea. As a result, she was sent to the Gaoyang County Hospital for emergency treatment. Upon being sent back to the labor camp, she was continuously beaten by the guards, who are said to have crushed her nipples, shocked her with electric batons simultaneously while pouring water over her, used pliers to pinch her flesh, and buried her in snow until she passed out. She is reported to be still detained in the labour camp.

260. By letter dated 21 May 2004, the Government informed that she was ordered by the labour rehabilitation committee in Shijiazhuang, Hebei Province, to undergo three years' labour re-education (from 20 July 2000 to 19 July 2003) for having severely disrupted public order, owing to her severe obsession with Falun Gong. She entered the Shijiazhuang labour re-education facility in January 2001 and in April of that year was transferred to the facility in Gaoyang. She suffered from heart disease and received emergency medical treatment while in re-education. During that time she gradually realized that Falun Gong was a deceptive and harmful fallacy and overtly broke with it; because her conduct had significantly improved, she was rewarded with a 119-day reduction in her term, and she was given an early release on 22 March 2003. The people's police at the labour re-education facility enforced the law in a civilized manner, and there were absolutely no instances of ill-treatment causing severe diarrhea or electric shocks being administered, as alleged.

261. On 4 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Rapporteur on the right to health, with respect to the following allegations, to which the Government responded by letter dated 21 May 2004:

262. **Tian Xianofei**, age 40, Pingshan District, Liaoyang City, Liaoning Province. He is serving a 10-year sentence in the Huazi Prison, Liaoyang City, for being a Falun Gong practitioner, began a hunger strike on 20 July 2003. He has recently been held in solitary confinement with two prisoners monitoring him around the clock. While he is asleep, his hands are handcuffed to the bed. His health is deteriorating from forced feedings and he has difficulty walking. He is denied medical treatment, and will continue to be denied such treatment until his internal organs malfunction or he renounces Falun Gong. He is not permitted visits by his family.

263. The Government informed that Tian Xiaofei was sentenced on 21 August 2002 by the Pingshan District People's Court in Benqi to 10 years' imprisonment for the crime of using a heretical organization to undermine law enforcement. After he entered prison he stopped eating normally, but through patient education and counselling his condition has

stabilized, he is eating normally, and hospital tests indicate that his health is excellent. While serving his sentence he has never been denied family visits, as alleged.

264. **Cao Jiguang**, a 35-year-old employee of the Cotton and Linen Company, Linshui County, Sichuan Province. He is serving a five-year sentence in Guangyuan Jail, Sichuan Province, for being a Falun Gong practitioner. He is detained in a small cell where five inmates are ordered to watch him throughout the day. He is on the verge of death after beginning a hunger-strike to protest against his alleged torture by the prison guards. On a previous hunger strike, Cao Jiguang was force fed by the jail's doctor, who inserted a plastic tube into his trachea and pulled it out repeatedly to hurt him. Before force-feeding him, the guards opened his mouth with an instrument, which caused severe injuries inside his mouth. After his hunger strike, the guards reduced his food by half.

265. The Government informed that Cao Jiguang was sentenced on 19 July 2002 by the Linshui County People's Court to five years' imprisonment for the crime of using a heretical organization to undermine law enforcement. After entering prison he became impulsive and irritable, but through the patient, attentive education and counselling provided by the prison his mood improved and he submitted to supervision. He has not been subjected to "torture", as alleged, nor is he "on the verge of death".

266. On 4 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding **Liu Xiaolian**, age 64, Chibi Town, Chibi City, Hubei Province. According to the allegations received, on 28 December 2003, she was arrested by the local Chibi City police and her whereabouts are unknown. Ms. Xiaolian has reportedly been detained on several occasions and subjected to torture and ill-treatment for being a Falun Gong practitioner.

267. By letter dated 21 May 2004, the Government informed that on 15 September 2002 she was placed in criminal detention by the local public security authorities, in accordance with the law, on suspicion of having committed a crime because she had engage in heretical Falun Gong activities. Following education she was released. On 29 December 2003, she was again placed in criminal detention for carrying out these activities. On 14 January 2004, the local labour rehabilitation committee ordered her to undergo a period of labour re-education of two years and six months. She is currently undergoing labour re-education. While in detention she was not subjected to any ill-treatment and her legitimate rights and interests were respected. The compulsory measures taken by the public security authorities in respect of Liu Xioalian, as well as the decision in her case, all had their basis in her heretical Falun Gong activities. When Liu entered the facility the staff strictly followed the method of "educate, reform and rescue" in dealing with her and conscientiously sought to guarantee her legitimate rights and interests; she was never beaten, verbally harassed or subjected to ill-treatment.

268. On 26 February 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 the right to freedom of opinion and expression, regarding **Sun Yuhua**. According to the allegations received, on 14 January 2004 at about 2pm, she was arrested at her home because she practiced Falun Gong by a group of policemen (whose names are known to the Rapporteurs) led by the Chief of the Political Security Team of Hulan County

Police Station. The policemen took Ms. Sun to Hulan County Police Station, where officers (whose names are known to the Rapporteurs) beat and tortured her. She was later sent to Hulan County Second Detention Centre, where she went on a hunger strike to protest her torture and detention. When she refused to give up her beliefs, she was transferred to the Hulan County First Detention Centre, where she continued her hunger strike, and was force-fed, causing her physical condition to become critical. As a result of his public disclosure of the persecution of Falun Gong, Ms. Sun's husband, **Zhang Qingsheng**, was detained at Hulan County First Detention Centre. The police from Hulan County Police Station also arrested Ms. **Sun's daughter**, an 18 year-old student at at Hulan County College, on 14 January 2004. She was interrogated and tortured for four days, before being sent to Harbin Second Detention Centre.

269. By letter dated 5 July 2004, the Government informed that Sun Yuhua and Zhang Qingshen were ordered in April 2001 by the local labour rehabilitation authorities to undergo labour re-education for two and three years, respectively, for having produced and distributed Falun Gong propaganda. Because Sun was in poor health, she was allowed to undergo her re-education outside a facility, and in August 2002, Zhang Qingshen's term was converted to external re-education. In November 2003, he was arrested by the public security authorities while distributing Falun Gong propaganda in Hulan County, Heilongjiang Province. He was found to have on his person a large quantity of illegal propaganda. In February 2004, the Hulan County People's Court sentenced him to three years' imprisonment, in accordance with the law, for the crime of using a heretical organization to undermine the implementation of law. Because Sun Yuhua and Zhang Hui had helped him to produce the material, the local labour rehabilitation authorities ordered the two women on 13 February 2004 to undergo one years' labour re-education. During her sentence, Sun Yuhua began a hunger strike and was taken to the Hulan County No. 1 Hospital for treatment. The treatment was ineffective, however, and on 8 March 2004, she died. The judicial authorities strictly upheld the law and fully respected the legitimate rights of the two persons. Concerning Sun Yuhua, the authorities proceeded on the basis of humanitarian principles and, in accordance with the law, treated her leniently by, among other things, allowing her to undergo her sentence outside a facility. When her health declined, she was promptly taken to the hospital for treatment. The allegation of torture is pure fabrication.

270. On 1 March 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the right to freedom of opinion and expression, regarding **Deborah Xu Yongling**, age 58, one of the leaders of the Chinese house church (an unregistered Protestant church). According to the allegations received, on 25 January 2004 at around 11 p.m., she was sleeping at her niece's home, when two female police officers came to the house and arrested her. She was handcuffed and taken to the central police station in Nanyang, Henan Province. Since her arrest, it has been impossible to receive news of her from the police in Nanyang. She suffers from breathing difficulties and high blood pressure.

271. By letter dated 26 May 2004, the Government informed that she violated the relevant laws and regulations and the police investigated her in accordance with the law. During the preliminary investigation Deborah Xu Yongling made a full and candid confession. She was released on bail and is currently living with family members while awaiting trial. While taking compulsory measures in respect of Deborah Xu Yongling the

public security authorities acted strictly in accordance with the law and conscientiously protected her legitimate rights and interests; there were no instances of any ill-treatment.

272. On 2 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 right to freedom of opinion and expression, regarding **Li Dongqing**, a Falun Gong practitioner. According to the allegations received, she is detained at Dabei Women's Prison, Baixitaizi village, Pingluo Town, Shenyang City, Liaoning Province. Li Dongqing, who suffers from hepatitis, has been subjected to prolonged periods of solitary confinement, scolding, beatings, and shocking with electric batons by guards, including during her period of detention at the Masanjia Labour Camp. Currently, her body is swollen and her state of mental health is said to be deteriorating.

273. On 15 March 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the right to freedom of opinion and expression, Special Rapporteur on torture and the Special Rapporteur on violence against women, regarding **Yiwen Tang**, a 37-year-old Falun Gong practitioner, Zuhai suburb, Guangzhou City, Guangdong Province. On 23 February 2004, she was taken from her home and is currently detained for re-education at the Chutou Law School, Guangzhou Baiyun district. On 10 March 2004 information was received that Yiwen Tang's health condition is critical. She is said to have been on hunger strike for 17 days to protest her detention. The family have appealed to the police in Guangzhou City to have an investigation into the legality of her detention and are calling for her immediate release. Allegedly no action has been taken to date.

274. On 6 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 the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders regarding **Ding Zilin**, **Zhang Xianling** and **Huang Jinping**, members of a group called the "Tiananmen Mothers", which has campaigned on behalf of their children and other relatives killed at Tiananmen Square in 1989. According to the allegations received, on 28 March 2004, the three women were detained in an attempt to warn them against commemorating the 15th anniversary of the pro-democracy protests in Tiananmen Square. The teenage sons of Ding Zilin and Zhang Xinliang, and Huang Jinpin's husband were killed at Tiananmen Square. No information on the whereabouts or on possible charges against the women is available.

275. By letter dated 10 June 2004, the Government responded that in taking compulsory measures in respect of them, the relevant authorities acted strictly in accordance with the law and conscientiously protected their legitimate rights and interests; the three were not tortured or subjected to any other inhumane treatment.

276. On 30 April 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 the right to health, regarding **Gong Sheng Liang** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, paras. 384 and 385). According to the allegations received, on 12 April 2004, his relatives visited him in Hongshan Prison and found that he was unable to walk and needed to be carried by four other inmates. It is

reported that Gong Sheng Liang said that he feared for his life and sought a transfer to another prison.

277. By letter dated 16 August 2004, the Government informed that his health is excellent. An investigation has revealed that ever since Gong Sheng Liang entered prison on 15 July 2003 to serve his sentence, the prison authorities have treated him in a civilized fashion; he has not been subjected to any discrimination, ill-treatment or beatings. On the morning of 11 April 2004, while sweeping the clinic, Gong Sheng Liang carelessly slipped and fell from a windowsill approximately 1m high. An examination indicated that the soft tissue of his legs had been injured. On 12 April 2004, his relatives came to the prison for a visit; the prison authorities, considering that he had difficulty walking, arranged for another prisoner to support him as he went to the visiting room. He had already told his relatives about the accident to his legs, and they indicated that they understood what had happened. Today he has recovered from his injuries and is able to walk without difficulty. Given that Gong Sheng Liang's closest relatives are all in Hubei Province, serving his sentence in a prison in that province would be of benefit to him in that he can see and receive assistance from members of his family. Accordingly, it has been arranged for him to serve his sentence in Hubei Province.

278. 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 health, and the Special Rapporteur on violence against women, regarding **Liu Mei**, a 36-year-old Falun Gong practitioner, Donggang City, Liaoning Province. According to the allegations received, she is held in Dabei Prison, Shenyang City. On 10 March 2004, a relative who visited her reported that Liu Mei was carried to the visiting room wearing a large gauze mask, and that she was extremely weak and thin. The guards immediately stopped the meeting when she said that she was dying, and since then no information on her situation has been available.

279. On 7 May 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding **Huang Xiangwei**, age 44, a high school music teacher, Harbin City, Heilongjiang Province. He is held at Changlinzi Labour Camp. He undertook a hunger strike to protest ill-treatment by the camp guards, as a result of which he lapsed into a coma and was sent to the hospital for emergency treatment. Since his admission to the camp's hospital around early April 2004, no information has been available on his condition and he was not allowed any visitors.

280. By letter dated 16 August 2004, the Government informed that he was ordered by the Harbin municipal labour rehabilitation committee to undergo three years' labour re-education (from 16 May 2002 to 15 May 2005) for engaging in illegal Falun Gong activities and disrupting social order. On 5 November 2002 he was sent to the Changlinzi labour re-education facility in Heilongjiang to undergo re-education. After entering the facility, Huang Xiangwei was regularly sent to the Harbin No. 2 Hospital and the Harbin Public Security Hospital for treatment because he suffered from coronary disease and high blood pressure. In March 2004 the labour re-education facility sent him to the clinic at the Wanjia labour re-education facility for treatment because, stubbornly holding on to the tenets of the heretical Falun Gong organization, he began a hunger strike and became seriously ill. While he was ill, relatives came to visit him regularly. Allegations that he was not allowed visitors are not true.

China's judicial authorities took coercive measures in respect of him solely on the basis of his illegal actions. When placing Huang Xiangwei in detention the public security authorities never subjected him to ill-treatment. All of his legitimate rights were guaranteed and the police never subjected him to any corporal punishment or ill-treatment, the question of torture does not arise.

281. On 18 May 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on right to freedom of opinion and expression, regarding **Jin Jiang** and his wife, **Wei Limei**, Botou City, Hebei Province. According to the allegations received, on 8 April 2004, they were arrested for giving explanations about the persecution of Falun Gong in their restaurant. The couple is detained at Botou Detention Centre, where they started a hunger strike to protest their detention, and were force-fed as a consequence. When Jin Jiang did not cooperate, the police beat him, broke his legs and two of his ribs, ruptured his right eardrum and dislocated his jaw. Wei Limei was beaten and was covered with bruises. They may be denied medical treatment.

282. On 4 June 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on, regarding Dr. **Jiang Yanyong**, age 72, and **his wife**, Beijing. According to the allegations received, they have been missing since 2 June 2004 when they left their apartment with officials from the government hospital where he is employed. The hospital officials had been evasive about Dr. Jiang Yanyong and his wife's whereabouts, and relatives were cautioned against publicizing their disappearance. Officials told the family, "They are safe. You should not go beyond the authority to whom you report." The telephone to Dr. Jiang Yanyong's apartment was cut off on 3 June. It is believed that Dr. Jiang Yanyong and his wife might have been targeted in relation to a letter written in March 2004 by Dr. Jiang Yanyong and widely publicized on the Internet, calling on the government to admit it was wrong in ordering the military assault against demonstrators in Tiananmen Square on 4 June 1989. In connection with the 15th anniversary of the events in Tiananmen Square, these and other persons have been placed under house arrest or taken to locations outside Beijing until the anniversary has passed (see previously transmitted communication, dated 2 June 2004, by the Special Rapporteur on freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders).

283. On 10 June 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding **Xiao Yunliang** (cited in previously transmitted communications, E/CN.4/2003/68/Add.1, para. 337, E/CN.4/2003/67/Add.1, paras. 109 and 111, E/CN.4/2004/56/Add.1, para. 399, E/CN.4/2004/62/Add.1, para. 141). Noting the Government's response (see para. 374), according to the allegations received, the condition of Xiao Yunliang has continued to deteriorate; his abdomen has become severely distended, and he cannot eat without experiencing pain or vomiting, and is suffering from heart trouble. Xiao Yunliang is suffering from symptoms associated with tuberculosis, pleurisy, hypertension, and his eyesight is failing. He is effectively being denied adequate medical treatment; the provincial police authorities have indicated that Xiao Yunliang would need to apply for a "medical treatment permit" from Shenyang No. 2 Prison before treatment would be considered. Moreover, family visits are effectively hindered because family members are required to re-apply for a permit from city and provincial authorities for every visit.

284. By letter dated 16 August 2004, the Government responded that on 25 June 2003, the Intermediate People's Court, Luoyang, Liaoning Province, sentenced him to four years' imprisonment and two years' deprivation of political rights for the crime of subverting the political authority of the State. He is currently serving his sentence in the Shenyang No. 2 Prison, Liaoning Province. A physical examination revealed that before he entered prison he suffered from cataracts and meningitis. With prompt treatment by the prison medical staff, the symptoms of meningitis were relieved. Although he suffers from cataracts, he is able to care for himself: he can read books and newspapers, write letters and watch television. A complete physical examination has indicated that he suffers from chronic indigestion, although he has not been ill recently. In fact the prison authorities have on a number of occasions taken Xiao Yunliang to the hospital to see a doctor for emergency treatment of pre-existing conditions; there is no question of his having been denied adequate medical treatment. Since entering prison, he has been allowed to see family members on numerous occasions. There have been no instances of torture in this case.

285. 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 health, and the Special Rapporteur on violence against women, with respect to allegations received concerning:

286. **Geng Juying**, a Falun Gong practitioner, Luozhuang Hamlet, Chengbo village, Mengzhou City, Henan Province. She is detained in Shibalihe Labour Camp. In 2000, she was arrested at home and taken to a detention centre, together with her eight month-old child, by the "610 Office", Mengzhou City, and officers from Mengzhou City Police Station (whose names are known to the Special Rapporteurs). On 25 May 2002, after Ms. Geng's release, police officers (whose names are known to the Special Rapporteurs) took her to the police station, without a warrant. Ms. Geng was again pregnant at the time. 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. She was sent to a detention centre in Jiaozuo City, Henan Province, and later to the Shibalihe Labour Camp where she is still detained. Ms. Geng's father, **Geng Xuecai**, mother, **Shen Guangbai**, elder sister, **Geng Xiaocui**, and brother, **Geng Huaming**, have also been detained many times because they practice Falun Gong.

287. Ms. **Chen Yaru**, a 46-year-old Falun Gong practitioner, Xiaohaidi, Hexi district, Tianjin City. Her current whereabouts are unknown. In April 2001, she 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, No. 6 Brigade, where she was tortured. On 13 May 2002, Ms. Chen practiced 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. She was chained spread-eagled to her bed for 23 days. On 6 April 2003, Ms. Chen 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 Ms. Chen. One policeman used the electric baton on her genitalia for 20 minutes. Then they did the same to the other female prisoner. Ms. Chen was shocked with electric batons all over her

body, to the point that her teeth became loose. For more than one month after this, her right arm was paralyzed.

288. Ms. **Yan Shujun**. Her current whereabouts are unknown. In November 2000, she was arrested by the Tianjin City, Heping District Public Security Bureau because she refused to give up Falun Gong, and taken to a police station where she was slapped. She was sentenced to two-and-a-half years of forced labour and detained at the No. 4 Brigade, Banqiao Women's Forced Labour Camp, Tianjin City. On 1 June 2001, Ms. Yan was transferred to the Tianjin City Jianxin Women's Forced Labour Camp, No. 3 Squadron, 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. Yan 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. Yan. The camp policewomen dragged Ms. Yan into a tiny, dark room and hit her all over her body with electric batons. They exposed Ms. Yan's body in front of the camp's male discipline instructors to demonstrate their electric baton torture. Then they confined Ms. Yan to a 1.6 ft x 1 ft x 5 ft wooden cage where she was forced to remain in a crouched position for eight days. Afterwards she had significant muscular and skeletal problems.

289. Ms. **Guo Baohua,** in her 30s, Tonggu district, Tianjin City. Her current whereabouts are unknown. In April 2001, Ms. Guo Baohua, was arrested by the police who tied her up and beat her because she refused to read anti-Falun Gong articles. They confined her to a wooden cage for more than one month. Ms. Guo went on a hunger strike for 37 days to protest this treatment. During her hunger strike she was handcuffed and tied up, and was put in solitary confinement for more than one month. Police handcuffed her to a radiator, then handcuffed her spread-eagled between two radiators. Later, the police handcuffed her and suspended her by her wrists. On 1 April 2003, the police shocked Ms. Guo with several electric batons simultaneously, and put her in a wooden cage for several days.

290. Ms. **Su Yanhua**, Lianjiangkou, Jiamusi City, Heilongjiang Province. She is detained in Jiamusi Labour Camp and her health is in critical condition. On 15 April, 2002, she 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 saturated with salt for seven days. In November 2002, guards forced Ms. Su 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, causing the skin on her buttocks to tear and bleed. Each time she moved, guards with electric batons 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. Su still refused to watch the videos, a guard (whose name is known to the Special Rapporteurs) handcuffed her to a bed in an asymmetrical position for two weeks. Ms. Su was not allowed to bathe for a long time, and by February 2003, she had developed scabies. On one occasion, 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, when Ms. Su began to practice Falun Gong exercises, two guards (whose names are known to the Special Rapporteurs), rounded up some other inmates to beat her. They dragged her to the second floor, where they forced her to sit on a cold cement floor with her hands handcuffed behind her back for ten days. On the tenth day, guards (whose names are known to the Special Rapporteurs) handcuffed her with one arm reaching down behind the head and the other hand meeting it from the lower back 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. Su was not released after her term expired.

291. On 16 July 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 right to freedom of opinion and expression, the Special Rapporteur on the right to health and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Wang Guofeng**, and his wife, **Li Suzhi**, HIV/AIDS activists. According to the allegations received, on 12 July 2004, they were arrested in Shangqiu City, Henan Province, as they were about to travel to Beijing to petition the National Health Department about services for people affected by HIV/AIDS in Shangqiu City. It is reported that people with HIV/AIDS have been detained in Henan province and have been beaten while in police custody.

292. On 12 August 2004, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders, concerning **Wang Bingzhang**, age 57. According to the allegations received, since January 2003, when he was sentenced to life in prison, he has remained in solitary confinement in Shaoguan prison. Up until June 2004, he has repeatedly been denied visits by family members for the last seven months. A senior prison official indicated that he was denied the visits as punishment for bad behaviour. Wang Bingzhang suffered a stroke in January 2004 as a result of a hunger strike he had undertaken to protest his conditions. He has difficulty walking and appeared disoriented and confused during the visit of the family member in June. In addition he suffers from gastritis, phlebitis and varicose veins. On 9 May 2003, the Working Group on Arbitrary Detention declared that the detention of Wang Bingzhang is arbitrary.

293. On 30 August 2004, the Special Rapporteur sent an urgent appeal, concerning **Gao Rongrong**. According to the allegations received, she is detained in Longshan Forced Labour Camp, Shenyang City. In May 2004 her face was severely disfigured by an electric baton. She began to urinate blood and has not been able to take food or water since 9 August 2004. Her eye sockets are depressed, her eyelids cannot close, and she is emaciated. Doctors from No. 1 Hospital, an affiliate of China Medical University, Shenyang City, expressed that her life is in danger, and have repeatedly issued "Terminally Ill Notices". However, an official of the Shenyang City's Judicial Bureau refused to release her, and allegedly stated, "If there is any danger, let the hospital treat her. Don't allow her to go home even if she dies."

294. On 20 September 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding the situation of **more than 50 people**, whose names have not been made public. According to the allegations received, they were sentenced to death over the past eight months for "separatist" and "terrorist" activities, in the Xinjiang Uighur Autonomous Region, and may be at risk of

imminent execution. On 13 September 2004, the Secretary of the Regional Communist Party Committee stated that none of these people sentenced had yet been executed. He claimed that the 50 persons were detained in the context of a security crackdown on 22 groups involved in "separatist and terrorist" activities. No further information has been made public about the circumstances of their trials or the evidence used to convict them. Nor is anything known about their conditions of detention prior to their trials and it remains unclear whether they had access to legal representation at any stage. Reports indicate that Uighurs detained on suspicion of "separatist" or "terrorist" offences are often detained without access to lawyers and are at high risk of torture or ill-treatment while in custody.

295. On 1 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding **Zhao Yan**, news assistant at the Beijing bureau of the *New York Times* and former reporter for *China Reform* magazine. According to the allegations received, on 17 September 2004, he was arrested in Shangai. On 21 September 2004, he was charged with "providing state secrets to foreigners", which may be punishable by execution. Zhao Yan is said to be held incommunicado.

296. On 12 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, regarding Ms. **Mao Hengfeng**. According to the allegations received, she is currently detained in the Shanghai Women's Reeducation Through Labour Camp, Shanghai Qingpu district, where she has been tied up, suspended from the ceiling and severely beaten. In 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 suffered at the hands of the police. Ms. Mao Hengfeng 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 detained repeatedly by police and questioned about those involved in their mother's petitions.

297. On 19 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding regarding Falun Dafa practitioner, **Zhao Yougang**, age 32. According to the allegations received, he is detained in Wuxi Prison where he is being subjected to torture, following a hunger strike he began in June 2004 to protest his ill-treatment. He reportedly weighs 35 kg and is being violently force-fed seven to eight times every night by the prison guards.

298. On 19 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on freedom of religion or belief, regarding **Tenzin Deleg Rinpoche** (cited in a previously transmitted communication, E/CN.4/2004/7/Add.1, paras. 43 and 68-69). According to recent allegations received, he is at imminent risk of execution, following a conviction based on a confession obtained under torture. It is reported that he was arrested on 7 April 2002 following a bombing incident in Chengdu, Sichuan Province on 3 April 2002. He was found guilty on 29 November 2002 in a secret trial by the Kardze (Ganzi) Intermediate People's Court in the Kardze Tibetan Autonomous Prefecture, Sichuan Province, for "causing explosions" and

"inciting separatism". On 2 December 2002 he was sentenced to death with a two-year suspension of execution, which will expire on 2 December 2004. Tenzin Deleg Rinpoche was held incommunicado for eight months from the time of his arrest until the time of his trial. He was tortured in detention, including by being shackled hand and foot and suspended from above, and forced to confess. His conviction was upheld on 26 January 2003 by the Sichuan High People's Court, and he was moved to a secret location afterwards.

299. On 19 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Yan Zhengxue**, a human rights defender, who has initiated an international petition campaign against the Re-Education Through Labour (RTL) system. According to the allegations received, on 14 September 2004 at 2:35pm, he was arrested by the State Security Department police, Taizhou City, Zhejiang Province and taken to an unknown location.

300. On 25 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers, regarding **Chan Yu Lam**, age 53, a British citizen and a resident of Hong Kong. According to the allegations received, on 24 February 2004, he was tried for espionage in a trial closed to his family by the Guangzhou Intermediate People's Court. He was convicted based on a confession extracted under torture, and on 5 March 2004, he was sentenced to life imprisonment. Chan Yu Lam was denied access to British consular officials during his detention and trial, and his lawyers were threatened against meeting them by State Security officials. Chan Yu Lam suffers from bronchitis, glaucoma, gout, a heart condition, as well as a chronic back ailment. He does not have access to his medication. On 31 January 2003, he was abducted in Shenzhen by persons who identified themselves as members of the Debt Collection Group of the Guandong Province Public Security Bureau, but were members of the Guanghzhou State Security Bureau. Repeated attempts by his family to ascertain his whereabouts were unsuccessful. At the end of June 2003, the Guandong Province Foreign Affairs Office informed the British Consulate General in Guangzhou that Chan Yu Lam had been arrested for an unspecified economic crime. Then in December 2003 his family received a letter from him informing them that he had been arrested for espionage and that they should retain lawyers for him. Therefore, since his arrest until 13 December 2003, at which time he was first visited by his lawyers, Chan Yu Lam was held incommunicado. When the lawyers met him at the Huadu Detention Centre, Guangzhou, they noted that he was coughing badly, he was very weak, was afraid of lights and was very depressed. In detention, the State Security Bureau interrogators tortured him in order to extract a confession: he was forced to remove his clothes in cold weather and stand on a stool as cold water was poured over his body; he was not permitted to sleep as he was subjected to a floodlight; he was interrogated for 24hrs; and the interrogators threatened him by saying, "*If you admit, we will set you free, if you do not admit, we will catch your wife, your son and your mother*."

301. On 26 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Zhang Bo**, Ms. **Wang Jie**, and **Cai Shaojie**, three Falun Gong practicioners, and **Li Weiji**. According to the allegations received, Zhang Bo is detained at an unknown location, Wang Jie and Cai Shaojie are detained in Dabei Prison, and Li Weiji is detained in Panjin Prison. It is

reported that the police broke both the arms of Li Weiji and caused him a lumbar inter-vertebral disc protrusion. As a result of the treatment suffered, he can hardly walk.

Follow-up to previously transmitted communications

302. By letter dated 9 July 2003, the Government provided information concerning **18 Tibetans** (E/CN.4/2004/56/Add.1, para. 381). The Government informed that in April 2003 some Chinese citizens from the Tibet Autonomous Region illegally crossed the border into Nepal. Their crossing of the border into another country is in violation of Chinese and Nepalese entry and exit regulations, and their treatment by the relevant authorities of both countries has been absolutely correct and lawful, and consistent with standard international practice. Moreover, China's law enforcement authorities dealt with the matter in strict compliance with the law, observing the relevant Chinese legislation as well as the relevant provisions of international human rights instruments; they also treated the parties involved in a humanitarian manner, carefully attending to their basic needs and physical well-being. There were no instances of torture or ill-treatment whatsoever. The Government stated that it is unreasonable for the Special Rapporteur on the question of torture, in the absence of any accusation, to express "concern" simply because these individuals were sent back to their country, regardless of whether or not they had been subjected to torture. China finds this expression to be inexplicable and lacking in sensitivity. The Chinese Government has consistently attached importance to the promotion and protection of human rights of Chinese citizens and to the important role played by the United Nations human rights machinery.

303. By letter dated 22 December 2003, the Government provided information concerning **Huang Qi** (E/CN.4/2004/56/Add.1, para. 402). The Government informed that on 5 June 2000 he was detained in accordance with the law and subsequently arrested on suspicion of inciting subversion of the political authority of the State. On 13 February 2001 the Chengdu intermediate people's court, acting in accordance with the law, heard Huang Qi's case in camera. During the trial it became impossible to proceed owing to Huang Qi 's state of health, and the trial was postponed. After the defendant's health was restored, hearing of the case by the Chengdu intermediate people's court was resumed. On 9 May 2003 the Chengdu intermediate people's court, acting in accordance with the law, issued its verdict, sentencing Huang Qi to five years' imprisonment and one year's deprivation of political rights for inciting subversion of the political authority of the State. Huang Qi contested this verdict and filed an appeal. On 7 August 2003 the Sichuan higher people's court issued a second decision upholding the original sentence. Huang Qi is currently serving his sentence in the Chuanzhong prison in Sichuan province. While he was in custody in Chengdu, Huang Qi stabbed himself with a pen to avoid being investigated. He was promptly given treatment by the police in order to save his life. In dealing with Huang Qi's case the Chinese public security authorities followed judicial procedures scrupulously; Huang Qi 's legal rights were fully respected, and the issue of his alleged torture simply does not arise. During the time Huang Qi was in prison, his family members came on numerous occasions to bring him money and gifts, but they never requested permission to see him. No family member was denied an opportunity to visit. At the time of his trial, the two lawyers assigned to Huang Qi saw him in prison on a total of four occasions: 3 January 2000, 11 September 2000, 9 February 2001 and 19 May 2003. During the trial Huang Qi and his counsel took part in the proceedings and fully exercised his right to a defence. The allegation that Huang Qi's attorneys saw him only once after his arrest in June 2000 is simply hearsay. Because this case

touched on State secrets, the hearings were held in camera, in accordance with the law. In both trials, however, the verdict was read out in an open courtroom, in accordance with the law, and during the three days leading up to the verdict the court issued public announcements abroad indicating the time and place of the judgement hearing. Therefore the allegation that neither Huang Qi's judgement nor his sentencing were open does not tally with the facts.

304. By letter dated 12 January 2004, the Government provided information concerning:

305. **Cao Zhenqi** (E/CN.4/2004/56/Add.1, para. 247). The Government informed that in July 2000, owing to his obsession with the Falun Gong heresy, he attempted to commit suicide by crashing into a wall, whereupon he was immediately taken to the hospital for treatment. There was no question of Cao Zhenqi's being "beaten until he lost consciousness".

306. **Li Binghua** (ibid, para. 249). The Government informed that in May 2000, he was ordered by the Tianmen municipal labour rehabilitation committee to undergo one year's labour re-education for disrupting social order. Following his admission to the facility, the Hubei provincial labour rehabilitation committee, acting in accordance with the law, extended his term of re-education for a further six months for seriously disrupting social order. During this time Li Binghua did not suffer any ill-treatment. He was released from labour re-education in November 2001.

307. **Xie Yufeng** (ibid, para. 250). The Government informed that in January 2000, he was ordered to undergo one year's labour re-education for disrupting social order. During this time he did not undergo any kind of torture. He completed his term of labour re-education in January 2001 and was released.

308. **Sun Shujie** (ibid, para. 251). The Government informed that between June and August 2000, she underwent one year's labour re-education for assembling and creating a disturbance in Beijing. Because she displayed remorse, she was given an early release in December 2000. However, following her release, Sun Shujie resumed her disruption of social order, and in February 2002 the local labour rehabilitation committee ordered her to undergo three years' labour re-education. During this time Sun Shujie's legitimate rights and interests were respected, and there was absolutely no beating or ill-treatment of her.

309. **Hao Aitong** (ibid, para. 255). The Government informed that in June 2000, she was ordered to undergo one year's labour re-education for disrupting social order. After entering the facility, she observed the labour re-education discipline and thus received a six-month reduction of her sentence, and on 22 December 2000 she was released. The residential quarters of the Jiamusi labour re-education facility are in a new building, and the conditions and atmosphere are quite satisfactory; there is absolutely no question of the cells being small and narrow. The allegation that she was forced to squat because the cell was too small, and as a result, her legs became paralysed and ulcerated, is simply a fabrication.

310. **Luo Xiaoyu** (ibid, para. 257). The Government informed that in March 2000, she was ordered by the Chengdu municipal labour rehabilitation committee to undergo 18 months' labour re-education for disrupting social order. During this time her health was excellent, and she was not "frequently beaten", as alleged. She was released in January 2001.

311. **Li Fengqi** (ibid, para. 258). The Government informed that in November 1999, she was ordered by the Leshan municipal labour rehabilitation committee to undergo 18 months' labour re-education for disrupting social order. During this time the staff of the labour re-education facility upheld the law in a civilized manner and Li Fengqi's legitimate rights and interests were protected. It is not true that she was "severely beaten … by guards and inmates". Li Fengqi was released in May 2001.

312. **You Quanfang** (ibid). The Government informed that in March 2000, she was ordered by the Chengdu municipal labour rehabilitation committee to undergo one year's labour re-education for disrupting social order. During that time she was never subjected to any form of ill-treatment. She was released in April 2001.

313. **Huaiyi Niu** (ibid, para. 260). The Government informed that in July 2000, he was ordered to undergo one year's labour re-education for disrupting social order. Because he suffered from serious heart disease and hypertension, the Daqing municipal labour re-education facility, with the approval of the Heilongjiang Labour Rehabilitation Office, released him on 13 April, for medical treatment. On 26 July, Huaiyi Niu died at home of his illness. The allegation that he died as a result of forced labour and ill-treatment is simply a fabrication.

314. **Zhu Junxiu** (ibid, para. 261). The Government informed that in October 2000, she was ordered by the Chengdu municipal labour rehabilitation committee to undergo one year's labour re-education. During that time her legitimate rights and interests were protected and she was not subjected to any kind of torture or ill-treatment. She was released in October 2001.

315. **Han Guiyan** (ibid, para. 262). The Government informed that in November 2001, she was ordered to undergo three years' labour re-education for disrupting social order. Because her conduct was relatively good, she was given an early release. While in labour re-education she was never beaten, and the accusations are not consistent with the facts.

316. **Li Xiuzhen** (ibid). The Government informed that in November 2001, she was ordered to undergo three years' labour re-education for disrupting social order. During this time, owing to the fact that she had heart disease, she was released on bail for medical treatment as authorized by law; however, Li Xiuzhen left home without permission, and her whereabouts are unknown to this day. The allegation that she had a heart attack because she had been beaten is simply a fabrication.

317. **Sui Chun** (ibid, para. 266). The Government informed that in May 2002, she was ordered by the Heilongjiang provincial labour rehabilitation committee to undergo two years' labour re-education for disrupting social order. While in re-education she has never been beaten, and the accusations in the letter are not consistent with the facts.

318. **Xu Lihua** (ibid, para. 268). The Government informed that in June 2000, she was ordered to undergo one year's labour re-education for disrupting social order. After she entered the re-education facility her term of re-education was extended, in accordance with the law, for a further two and a half months for disrupting order within the facility. While Xu Lihua was in re-education her legitimate rights and interests were protected, and she was not

"tied up and put in a solitary cell". She was released from labour re-education on 12 September 2001, and her health was excellent at the time of her release.

319. **Chen Gang** (ibid, para. 269). The Government informed that in June 2000, the Beijing municipal labour rehabilitation committee ordered him to undergo one year's labour re-education. Following his admission to the re-education facility, Chen Gang was frequently in violation of the facility's regulations and discipline, and disrupted administrative order. In accordance with the relevant legislative and regulatory provisions, and with the authorization of the Beijing municipal labour rehabilitation committee, Chen Gang's term of labour re-education was extended for a further six months. During his re-education he was never beaten, and the accusation contained in the letter is sheer fabrication.

320. **Duan Peichen** (ibid). The Government informed that in October 1999 he was ordered to undergo one year's labour re-education for disrupting social order. Following his admission to the re-education facility, Duan Peichen was frequently in violation of the facility's regulations and discipline, and disrupted administrative order. Under the relevant legislative and regulatory provisions, and with the authorization of the Beijing municipal labour rehabilitation committee, Duan Peichen's term of labour re-education was extended for a further six months. On 25 April 2001, he was released. In December , he was ordered to undergo a further two years' labour re education for disrupting social order. During this time he was not subjected to any form of torture or ill-treatment. Because his conduct was fairly satisfactory, he was given an early release on 7 July 2003.

321. **Hu Chang'an** (ibid). The Government informed that in April 2000, he was ordered to undergo one year's labour re-education for disrupting social order. During this time his legitimate rights and interests were protected, and he was not beaten, as alleged. Hu Chang'an completed his term of re-education and was released in April 2001.

322. **Cui Xiangjun** (ibid). The Government informed that in July 2000, he was ordered by the Beijing municipal labour rehabilitation committee to undergo one year's labour re-education for disrupting social order. During this time he was never subjected to ill-treatment. He completed his term of re-education and was released in July 2001.

323. **Zhang Guirong** (ibid, para. 270). The Government informed that in December 2001, she was ordered to undergo one year's labour re-education for disrupting social order. During this time her health was excellent, and her alleged beating to the extent that "she was unable to walk" did not happen. She was released on 5 December 2001.

324. **Yang Yufeng** (ibid, para. 271). The Government informed that in May 2000, she was placed in security detention for disrupting social order. In September 2000 she was ordered, with the approval of the local labour rehabilitation committee, to undergo two years' labour re-education for having again disrupted social order. During this time she was not subjected to any type of ill treatment and her health was excellent; the accusations are simply fabrication. Yang Yufeng was given an early release in February 2002 and has continued to practise medicine.

325. **Zhao Jun** (ibid, para. 272). The Government informed that in 2001, he was sentenced under the law to seven years' imprisonment for the crime of organizing and using a

heretical organization to undermine the implementation of the law. During this time Zhao Jun had complained that his arms hurt, and the judicial authorities twice brought him to the hospital to be examined. Medical tests revealed that the strength in his right arm was normal; he was not subjected to any ill-treatment and no injury was done to his right arm.

326. **Guo Yanbing** and **Fei Yuenying** (ibid, para. 273). The Government informed that in 2002, Guo Yanbing, in collusion with others, built a television broadcasting apparatus in an attempt to subvert the local television network. In April 2003, Guo was sentenced to two years' imprisonment. Fei Yuenying was placed in criminal detention for disrupting social order and was subsequently released.

327. **Yang Xianfeng** (ibid, para. 274). The Government informed that in 2002, she was sentenced to four years' imprisonment for the crime of organizing and using a heretical organization to undermine the implementation of the law. During her detention and investigation her legitimate rights and interests were respected, and she was not subjected to any "ill-treatment" by the public security authorities.

328. **Zhu Juying** (ibid). The Government informed that in March 2001, she underwent criticism and education from the public security authorities for having disrupted social order. She did not receive any punishment and was certainly not subjected to "ill treatment".

329. **Hou Zhanhai** (ibid, para. 275). The Government informed that in September 2000, he was ordered to undergo two years' labour re-education for disrupting social order. In August 2001, the people's police at the re-education facility discovered that Hou Zhanhai was not eating and that her mental state was not good. Following an examination by the Central Hospital in Liaoning City, she was diagnosed with pulmonary tuberculosis. On 27 August 2001, the labour re-education facility, acting in accordance with the law, released her on bail for medical treatment; she was taken home by family members to receive medical care. She subsequently died of her illness at home. While she was in re-education the staff of the facility upheld the law in a civilized manner and provided Hou Zhanhai with unstinting care; the allegation that she was "severely beaten" is not true.

330. **Li Qiang** (ibid). The Government informed that in March 2002, he was ordered to undergo three years' labour re-education for disrupting social order. Because Li Qiang suffered from heart disease, the people's police at the re-education facility often took him to the hospital to be seen by a doctor. With the authorization of the Jilin Province Labour Rehabilitation Office, the labour re-education facility released Li Qiang on bail to obtain medical treatment, and on 29 May 2003, he was taken by family members to receive medical care at home.

331. **Li Qingru** (ibid). The Government informed that in 2001, he was ordered to undergo labour re-education for one year for disrupting social order. During this time there were no instances of a hunger strike. Li Qingru was released on 11 January 2002.

332. **Niu Junhui** (ibid). The Government informed that in March 2001, he was ordered to undergo two years' labour re-education for disrupting social order. During this time he never went on a hunger strike, and he was released in March 2003.

333. **Fu Hongwei** (ibid). The Government informed that in September 2000, he was ordered to undergo two years' labour re-education for disrupting social order. During this time he was never subjected to any kind of ill-treatment, and he was released in September 2001.

334. **Guo Zhande** (ibid). The Government informed that in August 2000, he was ordered to undergo one year's labour re-education for disrupting social order. After his admission to the re-education facility, Guo Zhande's conduct was relatively satisfactory; his term of re-education was therefore reduced by three months, and he was released in May 2001. The allegation that Guo Zhande was "beaten" is not consistent with the facts.

335. **Zhao Fengxia** (ibid, para. 276). The Government informed that in November 2000, she was ordered to undergo one year's labour re-education for disrupting social order. Never during that time was she beaten so that she "suffocated and urinated in her pants". She was released on 20 September 2001, and her health was excellent at the time of her release.

336. **Li Haiyan** (ibid, para. 277). The Government informed that in January 2001, she was ordered to undergo one year's labour re-education for disrupting social order. Following her admission to the re-education facility Li Haiyan was never detained in the men's Ward, nor was she subjected to any form of ill-treatment. She was released on 7 January 2002, and her health was excellent at the time of her release.

337. **Liu Aiqing** (ibid, para. 279). The Government informed that on 4 June 2001, she was placed in criminal detention for disrupting social order. On 7 June 2001, she was released on bail to await trial; she subsequently left home in secret, and her whereabouts remain unknown. While in detention Liu Aiqing was neither beaten nor hit with electric prods.

338. **Yang Xiuli** (ibid, para. 281). The Government informed that in February 2000, she was ordered to undergo one year's labour re-education for disrupting social order. Following her admission to the re-education facility her term was extended, in accordance with the law, by a further seven months and 12 days for having disrupted order within the facility. During this time her legitimate rights and interests were protected, and she was never "beaten", as alleged. She was released on 2 October 2001, and her health was excellent at the time of her release.

339. **Peng Zhenhe** (ibid, para. 282). The Government informed that in January 2001, he was ordered to undergo one year's labour re-education for disrupting social order. Following his admission to the re-education facility, Peng Zhenhe was examined and found to be suffering from myocardial ischaemia, whereupon the facility immediately provided him with medical care so that he might gradually recover his health. He was never subjected to any so-called ill treatment. He was released on 2 January 2002.

340. **Pan Juying** (ibid, para. 283). The Government informed that in November 2001, she was ordered to undergo two years' labour re-education for disrupting social order. Subsequently, because of an accelerated heartbeat, she was allowed to serve her term outside the facility. She was neither poisoned nor beaten. She was released from labour re-education in November 2003.

341. **Cao Yingchuan** (ibid, para. 285). The Government informed that in November 1999, she was ordered to undergo three years' labour re-education for disrupting social order. During this time she was not beaten or force-fed until she bled from her mouth. Subsequently, because she displayed signs of myasthenia gravis, the re-education facility, acting in accordance with the law, arranged for medical treatment outside the facility. Cao Yingchuan was released in November 2002.

342. **Han Haidong** (ibid, para. 287). The Government informed that in August 2000, he was ordered to undergo one year's labour re-education for disrupting social order. During this time his term of re-education was extended by four months as a result of his disrupting the administrative order, and he was released on 29 December 2001. On 4 February 2002, he was ordered to undergo a further three years' labour re-education for disrupting social order. At no time did the labour rehabilitation authorities ever engage in such conduct as hanging him upside down, beating him or subjecting him to corporal punishment.

343. **Cui Qiuju** (ibid, para. 289). The Government informed that in August 2000, she was ordered by the Jiaozuo municipal labour rehabilitation committee to undergo two years' labour re-education for disrupting social order. On 22 August 2002, she completed her re-education. The re-education facility was run in a civilized and scientific manner, and Cui Qiuju was never subjected to physical or verbal harassment, corporal punishment or ill-treatment, nor was she "often beaten".

344. **Li Huiqi** (ibid, para. 291). The Government informed that in December 2001, she was ordered to undergo one year's labour re-education for disrupting social order. On 9 April 2002, Li Huiqi was sent to the Hebei provincial hospital for treatment because she was suffering from intestinal adhesion (the result of an illness suffered seven years previously while she was a student). Subsequently she was diagnosed by a panel of specialists as having neuritis, whereupon the labour re-education facility made a payment of 620,000 yuan renminbi to defray Li Huiqi's medical expenses. On 3 December 2002 Li Huiqi completed her term of labour re-education. An investigation has revealed that the labour re education facility was run in a civilized and scientific manner, and the allegation in the letter that Li Huiqi's health deteriorated as a result of her being subjected to ill-treatment is not true.

345. **Mu Xiangjie** (ibid, para. 292). The Government informed that in November 2000, she was ordered by the Tianjin municipal labour rehabilitation committee to undergo two years' labour re education for disrupting social order. Because she frequently beat and abused other persons while in the re-education facility and disrupted order there, the authorities at the facility, acting in accordance with the law, extended Mu Xiangjie's term of re-education, by means of administrative decisions, for a further six months in November 2002 and May 2003. The labour re-education authorities, following the labour re-education guidelines of "education, reform and rescue", saved Mu Xiangjie through education and guaranteed her personal safety and physical health. It is not true that she was beaten with electric batons, or placed in a solitary confinement cell so that she could not walk for one month.

346. **Gaidi Zhu** (ibid, para. 295). The Government informed that in September 2001, she was ordered to undergo two years' labour re-education for disrupting social order. Subsequently, because she was suffering from diabetes, she was allowed to serve her term

outside the re-education facility. On 3 October 2002, she died of her illness at home. The allegation that she was beaten, and as a result, her condition became very critical, leading to her death, is simply a fabrication.

347. **Gao Shuyan** (ibid, para. 301). The Government informed that in February 2000, she was ordered to undergo one year's labour re-education for disrupting social order. Following her admission to the re-education facility, Gao Shuyan had her term of re-education extended, in accordance with the law, by a further seven months and eight days for disrupting order within the facility. While in re-education Gao Shuyan was never subjected to any form of ill treatment, and she was released on 20 September 2001, at which time her health was excellent.

348. **Wang Fang** (ibid, para. 302). The Government informed that in October 1999, she was ordered to undergo two years' labour re-education for disrupting social order. During this time the administrative staff ensured that her re-education was carried out in a civilized manner, and Wang Fang was never subjected to any ill-treatment or torture. She was released on 1 October 2001, and her health was excellent at the time of her release.

349. **Zuo Xiuyun** (ibid). The Government informed that in February 2000, she was ordered to undergo one year's labour re-education for disrupting social order. Following her admission to the re-education facility, her term of re-education was extended for a further six months and 25 days for disrupting order within the facility. During that time no so-called beatings or other ill-treatment occurred. Zuo Xiuyun was released on 20 September 2002, and her health was excellent at the time of her release.

350. **Li Yanhong** (ibid). The Government informed that in October 1999, she was ordered to undergo two years' labour re-education for disrupting social order. During this time Li Yanhong's legitimate rights and interests were protected, and she was released on 30 October 2001.

351. **Zhuo Xiaojun** (E/CN.4/2001/66, para. 306; and E/CN.4/2002/76/Add.1, para.369). The Government informed that on 23 April 2001, the Supreme People's Court of Fujian Province issued a ruling rejecting the appeal and upholding the original verdict. I it also filed the case with the Supreme People's Court for review and approval, in accordance with the law. At present the case is under review.

352. A serious investigation by the Government has failed to elicit any information about the situation of the following individuals: **Xiang Chen** (E/CN.4/2004/56/Add.1, para. 248), **Huang Tianming** (ibid,, para. 252), **Zhong Sufang** (ibid, para. 253), **Zhang Pinghua** (ibid, para. 254), **Ms. Sui** (ibid, para. 254), **Wang Hongsheng** (ibid, para. 256), **Ye Xinghua** (ibid, para. 259), **Zheng Sufen** (ibid, para. 262), **Mr. Xiao** (ibid, para. 263), **Wang Xiu** (ibid, para. 264), **Liu Guihong** (ibid, para. 265), **Li Xin** (ibid, para. 267), **Zhang Dahai** (ibid, para. 269), **Ji Wentao** (ibid, para. 275), **Yuzhi Wang** (ibid, para. 278), **Qi Yingjun** (ibid, para. 280), **Tong Lijun** (ibid, para. 284), **Liu Zhengxing** (ibid, para. 286), **Yang Chongyu** (ibid, para. 288), **Li Yanming** (ibid, para. 290), **Zaixin Wei** (ibid, para. 293), **Xinzhi Gu** (ibid, para. 294), **Chen Ke Yun** (ibid, para. 298), **Anu** (ibid, para. 300), and **Lu Changjun** (ibid, para. 307). The Special Rapporteur is requested to provide additional information so that the Government can make inquiries.

353. By letter dated 12 January 2004, the Government provided information concerning **He Depu** (E/CN.4/2004/56/Add.1, paras. 388 and 395). The Government informed that China was one of the first countries to become party to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Its consistent position has been one of opposition to those scourges. Laws such as the Criminal Law and the Police Law all contain extremely strong provisions prohibiting torture. While he was in detention, He Depu's rights were guaranteed in satisfactory fashion and his health was normal. The claim that his health deteriorated rapidly after his arrest is totally false.

354. By letter dated 12 January 2004, the Government provided information concerning:

355. **Jiang Zhongli** (E/CN.4/2004/56/Add.1, para. 339). The Government informed 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. Jiang Zhongli herself has expressed indignation at the libellous statement that the public security authorities beat her until she miscarried.

356. **Lu Yunzhen** (ibid, para. 340). The Government informed 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. Now mother and child are currently doing well. The allegation that Lu Yunzhen was forced to have an abortion does not tally with the facts.

357. **Wang Shaona** (ibid, para. 342). The Government informed that in July 2000, she was placed in criminal detention on suspicion of disturbing social order. While in custody Wang Shaona miscarried and the public security authorities released her on bail, in accordance with the law. In no case was Wang Shaona forced to have an abortion while in custody.

358. **Wang Xia** (ibid, para. 343). The Government informed 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 social order. At the time of her medical examination upon entering the facility, Wang Xia'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 Wang Xia 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 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 Wang Xia was subsequently released on bail with restricted liberty. On 25 September 2002, Wang Xia was captured by the Baotou public security authorities after illegally leaving her place of residence. Because her action violated the criminal law 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 Wang Xia 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.

359. **Zou Guirong** (ibid, para. 344). The Government informed 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 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, Zou Guirong 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 that Zou Guirong was subjected to such forms of torture as electrical shocks and beatings does not tally with the facts.

360. **Yang Ping** (ibid, para. 345). The Government informed that in March 2000, she was taken into custody by the national public security authorities in Beijing for disturbing social order. After the public security authorities discovered that Yang Ping was pregnant they took the necessary steps to have her released on bail, in accordance with the law. She was not forced to have an abortion while in custody.

361. **Zhang Wuying** (ibid, para. 346). The Government informed that in February 2001, Zhang Wuying 's husband, Wu Dianhui, was sentenced by the Changzhou labour re-education committee to serve two years' labour re-education for having engage, together with Zhang Wuying, in activities that disturbed social order. The judicial authorities took into consideration the fact that Zhang Wuying was pregnant and did not sentence her: The allegation that she was forced to have an abortion is a fabrication.

362. **Bai Lili** (ibid, para. 347). The Government informed that she was ordered to serve one year's labour re-education for disturbing social order. Because Bai Lili's behaviour was relatively good, she was given an early release from labour re-education on 20 November 2000. The allegation that she suffered ill-treatment and went deaf while in the labour re-education facility does not tally with the facts.

363. **Zheng Baohua** (ibid, para. 347). The Government informed 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 social order, on 20 November 2000, she was given an early release. Following her release, Zheng Baohua was ordered to serve a further three years' labour re-education for disturbing social order. Because her behaviour while in labour re-education was relatively good, she was given an early release on 8 November 2002. The allegation that she was subjected to ill-treatment is pure fabrication.

364. **Li Naimei** and **Wu Xiaoping** (ibid, para. 349). The Government informed that in July 2000, they were arrested in Beijing for assembling and creating a disturbance, and

following re-education they were released. The two women were not subjected to ill-treatment while in custody as alleged.

365. **Liu Yanhua** (ibid, para. 350). The Government informed that in October 2000, 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 Liu Yanhua was pregnant, whereupon they released her on bail. The allegation that Liu Yanhua suffered ill-treatment while in detention does not tally with the facts.

366. **Yan Juying** (ibid, para. 351). The Government informed 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 Yan Juying subjected to degrading treatment or ill-treatment.

367. **Li Shulian** (ibid, para. 352). The Government informed 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. The allegation that she was subjected to ill-treatment while in labour re-education does not tally with the facts.

368. **Gu Peng** (ibid, para. 357). The Government informed that in October 2000, she was arrested for disturbing 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 Gu Peng returned to her original work unit. The allegations that she was given electric shocks and subjected to mental harassment are pure fabrication.

369. **Chen Yali** (ibid, para. 358). The Government informed 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 social order. After entering the labour re-education facility, she created a disturbance, and her term of re-education was extended by six 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 reveals that the labour re-education facility was run in a civilized manner, in accordance with the law, and that Chen Yali was not subjected to any electric shocks or other ill-treatment or punishment.

370. **Wang Hongmei** (ibid, para. 359). The Government informed that in June 2001, she was placed in criminal detention by the national public security authorities for engaging in activities that disturbed social order in Lanzhou. When the public security authorities learned that Wang Hongmei was pregnant, they had her placed under house arrest. She has since returned to her original work unit. The allegation that she was forced to have an abortion does not tally with the facts.

371. **Yang Dingying** (ibid, para. 362). The Government informed 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 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. At no time did they beat or verbally harass Yang Dingying or inflict corporal punishment or ill-treatment.

372. **Zhu Jiayan** (ibid, para. 362). The Government informed 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 Zhu Jiayan, inflict corporal punishment or subject her to ill-treatment. Zhu Jiayan completed her term of labour re-education on 11 October 2003.

373. As no detailed information regarding **Liu Xiaofen** (ibid, para. 338), **Liang Mei** (ibid, para. 341), **Huang Rifen** (ibid, para. 354), **Liu Xiaolian** (ibid, para. 355), **Gao Xunhong** (ibid, para. 356), **Wang Youxia** (ibid, para. 361), **Dou Jianhua** (ibid, para. 348), **Xu** (ibid, para. 360) and **Shi** (ibid, para. 353) was provided in the letter, the Government has been unable to look into their cases despite having conducted many searches. The Special Rapporteur is requested to provide it with additional information so that will further its investigations.

374. By letter dated 2 March 2004, the Government provided information concerning **Yao Fuxin** and **Xiao Yunliang** (E/CN.4/2004/56/Add.1, para. 399). The Government informed that on 9 May 2003, Yao Fuxin and Xiao Yunliang were sentenced by Liaoyang Intermediate People's Court in Liaoning Province to seven years' imprisonment and three years' deprivation of political rights, and four years' imprisonment and two years' deprivation of political rights, respectively. Appeals against their convictions were dismissed, and they are currently serving their sentences in Lingyuan No. 2 Prison, both in fine physical and mental health. The accusations with regard to the Lingyuan Prison are nonsense.

375. By letter dated 2 March 2004, the Government provided information concerning **Cheng Jun Liu** (E/CN.4/2004/56/Add.1, para. 396). The Government informed that in September 2002, Cheng Jun Liu was sentenced by the Changchun Intermediate People's Court to 19 years' imprisonment for using a heretical organization to undermine law enforcement and sabotage radio and television broadcasting facilities. Cheng Jun Liu was weak from a number of illnesses, and the prison authorities diagnosed and treated him on numerous occasions. However, because he was obsessed by a heretical organization, he refused treatment and food, which caused his illness to worsen. He was taken successively to the Centre Hospital in Jilin City, the Jilin Province Prison Administration Bureau Hospital and the China-Japan Friendship Hospital at Jilin University for treatment, but he ultimately suffered from respiratory failure, hypoglycemic shock and acute renal failure, and on 26 December 2003 he died in hospital. Throughout his illness Cheng Jun Liu's parents came to visit him in the hospital, and they did not question the cause of death. When Cheng Jun Liu's health deteriorated because he had become obsessed with a heretical organization, the Chinese judicial authorities, motivated by a humanitarian spirit, took him time and again to a number of hospitals for treatment. There was no torture involved in this case.

376. By letter dated 18 March 2004, the Government provided information concerning **Li Qian** (E/CN.4/2004/56/Add.1, para. 401). The Government informed that 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. During the investigation, Li 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 Li was closed.

377. By letter dated 18 March 2004, the Government provided information concerning the following cases:

378. **Yang Fenglian** (E/CN.4/2004/56/Add.1, para. 400). The Government informed that 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. Yang 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 Yang was never tortured. The claims, among others, that she was brutally beaten and paid bail to be released are sheer fabrications.

379. Her **16 year-old daughter** (ibid). The Government informed that Du Likun, Yang Fenglian's daughter is age 19. She was detained in October 2000, on suspicion of involvement in the exploitation of a heretical organisation to obstruct the enforcement of the law, and released after education. She was detained again in December 2003, on suspicion of exploiting a heretical organisation to obstruct the enforcement of State law. Du Likun was assigned to two years' re-education through labour on 6 January 2004.

380. **Tian Li** (ibid). The Government informed 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, 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, Tian Li 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 Tian Li. The claim that she was subjected to torture is sheer calumny.

381. **Chen Yinghua** (ibid). The Government informed that the public security organs detained her in accordance with the law on suspicion of exploiting a heretical organisation to obstruct the enforcement of the law. While under investigation, Chen Yinghua 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. Chen Yinghua is still at home and her physical condition is now normal. The claim that she was tortured while in custody is not in accordance with the facts.

382. Falun Gong is not a religion but an anti-social, anti-scientific, misanthropic heretical organisation whose violent leanings are becoming steadily more apparent. Incomplete figures indicate that, to date, Falun Gong has cost over 1700 practitioners their lives. The Falun Gong organisation repeatedly damages broadcasting and television facilities, often attacks satellite equipment and interferes with the normal broadcasting of radio and television programmes and the normal use of satellites on political grounds, threatening the security of the radio industry. Such behaviour blatantly violates common human moral standards, wilfully tramples on the basic principles of civilian communications and seriously endangers public security. The action taken by the Chinese Government against Falun Gong is intended to uphold the rights and freedoms of the public at large. At the same time, China is a country ruled by law and it acts strictly in accordance with the law in countering the Falun Gong organisation, is careful about ways and means and fully guarantees all rights. The claim in the communication that Falun Gong practitioners are tortured by the Chinese Government is pure fabrication. The coercive action taken by the Chinese law enforcement authorities against the individuals concerned was all prompted by their unlawful conduct, and is unrelated to questions of freedom of speech or the press. China was one of the earliest States to become a party to the Convention against Torture. It firmly prohibits torture and other cruel, inhuman and degrading treatment and punishment and takes concrete action against them by means of the Penal Code, the Code of Criminal Procedure, the Police Act and other such domestic legislation. In their handling of the case under consideration, the Chinese law enforcement authorities acted strictly in accordance with the legally prescribed procedure. The legitimate rights of the individuals concerned have been fully respected, and there is no question of their having been tortured or held too long in custody. In the case under consideration, the individuals concerned were investigated by the law enforcement authorities purely because their behaviour suggested that they had broken the law. There was no question of violence against women. The Chinese Government is mindful of the right to health. Chinese civil law, the Labour Act, the Occupational Diseases Act and other such laws afford concrete protection of the right to health from many different angles. In 2001, the Supreme Court issued an interpretation on certain questions to do with the determination of civil tort liability to pay compensation for psychological injury, which symbolises China's acknowledgement of citizens' right to mental health.

383. By letter dated 21 May 2004, the Government provided information concerning **Jiang Lijun** (E/CN.4/2004/56/Add.1, para. 378). The Government informed that he was arrested on 14 December 2002 by the Beijing municipal public security authorities, acting in accordance with the law and with the authorization of the second branch office of the Beijing Municipal people's procuratorate, on suspicion of engaging in acts that subverted the political authority of the State. The Chinese judicial authorities have acted in strict compliance with the provisions of the Criminal Procedure Law of the People's Republic of China concerning arrest warrants and the time limits applicable to detention; the legitimate rights of the criminal suspects have been fully respected. There has been no torture in these cases.

384. By letter dated 21 May 2004, the Government provided information concerning **Lu Guiling** (E/CN.4/2004/56/Add.1, para. 403). The Government informed that on 20 June 2003,

she was sentenced by the People's Intermediate Court of Huancui District in Weihai to 19 years' imprisonment (from 23 January 2003 to 22 January 2022) for the crime of organizing and using a heretical organization to undermine law enforcement and commit crimes, and the crime of sabotaging radio and television facilites. She has been released on bail to obtain medical treatment. Before Lu Guiling entered prison she suffered from a number of illnesses; because she practiced Falun Gong she stopped her medical treatment, whereupon her health took a dramatic turn for the worst. After she entered prison, the authorities constantly sought to treat her and released her on bail. The allegation that she was subjected to ill-treatment in prison and that the authorities refused to release her is simply hearsay.

385. By letter dated 5 July 2004, the Government provided information concerning **Yan Jun** (E/CN.4/2004/56/Add.1, para. 398). The Government informed that on 9 May 2003, he was arrested on suspicion of inciting subversion of the political authority of the State, and charged on 10 October 2003 by the People's Procuratorate of Xian, Shaanxi Province. On 8 December 2003, Xi'an Intermediate People's Court sentenced him to two years' imprisonment. On 26 February 2004, the Supreme People's Court of Shaanxi Province upheld the decision on appeal. While Yan was in detention his legitimate rights were fully guaranteed and his health was normal. He was tried in open proceedings and his right to a defence was fully respected.

Observations

386. On 16 June 2004, the Special Rapporteur issued a statement, concerning the postponement of his visit to China. The 12-day visit, which was scheduled to take place from the end of June 2004, was postponed at the request of the Government, which cited the need for additional preparation time.

Colombia

387. Por carta de fecha 18 de marzo de 2004, el Relator Especial, juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, notificó al Gobierno que había recibido información según la cual que el 22 de septiembre de 2003, la policía antimotines habría hecho un uso excesivo de la fuerza en hechos ocurridos en la **Universidad de Cali**. Se alega que seis agentes del grupo de reacción de la policía habrían disparado contra un grupo de unos 20 estudiantes que realizaban una protesta de manera pacífica en las cercanías del campus universitario en contra de la privatización y liquidación de las Empresas Municipales de Cali, manifestación que habría estado escoltada por la policía metropolitana de Cali. Uno de los estudiantes de psicología**, Jhon Edward Osorio Grisales** habría resultado herido por bala. Los estudiantes que trataron de ayudarle habrían sido rodeados por los policías, y golpeados con puntapiés. Jhon Edward Osorio Grisales habría podido ser finalmente llevado hacia una ambulancia y a las Urgencias de la Clínica Valle de Lilí por personas que habrían sido atacadas por los miembros de la policía con disparos, golpes y gases lacrimógenos. Varios estudiantes que querían acompañarlo habrían sido agredidos brutalmente por miembros de la policía antidisturbios, y otros fueron detenidos, entre ellos: **María del Rosario Perdomo, Lenin David Campo, Walter Julián Rodríguez, Luis Ángel López, Ana Carolina Marcel, Natalia Peña, Edwin Andrés Sánchez, Andrés Felipe Arenas, Sandra Maritza Castro** y **Juan Carlos Barreto**. Durante su detención, Juan

Carlos Barreto habría sufrido asfixia y parálisis y habría sido ingresado de urgencias a la mencionada clínica.

388. Por esta misma carta, el Relator Especial notificó al Gobierno que también había recibido información según la cual el 24 de septiembre de 2003 la policía antimotines de Bogotá habría irrumpido en la Universidad Distrital Francisco José de Caldas y habría golpeado y detenido, sin presentar ninguna orden judicial, a varias personas que se encontraban en predios del establecimiento educativo, ocupando de manera pacífica parte de la cafetería y del edificio del Programa de Física, como un acto de rechazo al nombramiento del rector del centro educativo. Como resultado de la agresión, al menos 60 estudiantes y profesores habrían sido golpeados y privados de libertad. Algunos estudiantes que permanecían en clase, también habrían sido golpeados y sacados por la fuerza de sus aulas.

389. Por carta de fecha 18 de marzo de 2004, el Relator Especial, juntamente con el Relator Especial sobre Ejecuciones extrajudiciales, sumarias o arbitrarias, notificó al Gobierno que recibió información sobre los siguientes casos. El Gobierno proporcionó información sobre cada uno de estos casos a través de dos cartas de fechas 26 de julio y 30 de agosto de 2004.

390. **Mario Castro Bueno**, abogado, habría sido detenido por un grupo de paramilitares en Pueblo Sánchez, jurisdicción del municipio de El Dorado, el 1 de noviembre de 2002 cuando viajaba en autobús entre El Castillo y Villaviciencio, departamento de Meta. Habría sido conducido a las Tres Esquinas, a dos kilómetros de El Castillo. Su cuerpo habría sido hallado más tarde sin vida y con marcas de tortura, de cortes y de puñaladas.

391. El Gobierno informó de que la denuncia en nombre de la víctima se realizó de oficio y que el órgano encargado de la investigación era la Fiscalía 11 Delegada en Villavicencio. La autopsia realizada por el Centro de Salud de El Castillo Meta, estableció que las causas de la muerte fueron una herida de arma blanca penetrante a ventrículo izquierdo y herida por degollamiento. El Gobierno indicó igualmente que la investigación se encontraba en etapa preliminar en práctica de pruebas desde el 27 de noviembre de 2002. Todavía no se habría identificado al presunto autor.

392. **Rodrigo Gutiérrez**, de 70 años, habría sido sacado de su casa en el municipio El Castillo, departamento de Meta, por un grupo de paramilitares a principios de febrero de 2003. Su cuerpo sin vida habría sido hallado un día más tarde con marcas de tortura en los alrededores de la granja “La Cal”.

393. El Gobierno informó de que el 19 de mayo de 2004 se ordenó la apertura de una investigación preliminar por la comisión de un presunto delito de homicidio, siendo el denunciante de oficio. Entre otras medidas se habría ordenado allegar pruebas sobre las operaciones desarrolladas por el Ejército y la Policía en febrero de 2003. El Gobierno informó de que dicho proceso fue archivado en fecha 20 de Noviembre de 2003 por haber transcurrido más de 180 días sin que se hubiera identificado el autor o autores.

394. **Polidoro Rau Bustos** habría sido detenido, torturado y asesinado por un grupo de paramilitares el 24 de febrero de 2003 en el municipio El Castillo, departamento de Meta. Su cuerpo habría sido encontrado desmenuzado nueve días más tarde.

395. El Gobierno informó de que el proceso por delito de homicidio, siendo la identidad del denunciante conocida por el Relator Especial, se había tramitado ante los jueces penales de circuito especializados (subunidad de terrorismo). Informó finalmente de que éste fue archivado en fecha 26 de Febrero de 2004 por haber transcurrido más de 180 días sin que se hubiera identificado el autor o autores.

396. **Rubén Darío López Vergara**, agricultor del Corregimiento de Santa Ana, municipio de Granada, en la región del Oriente de Antioquia, habría sido arrestado por miembros del ejército el 8 de febrero de 2004 en un lugar conocido como "El Empalme". Unas horas más tarde, su cadáver, que presentaba múltiples heridas, habría sido llevado a la cabecera municipal, vestido con uniforme camuflado.

397. El Gobierno informó de que la Fiscalía seccional de El Santuario trató de corroborar la denuncia interpuesta de oficio. El Gobierno indicó igualmente que la autoridad competente para el conocimiento del hecho es la justicia penal militar. Las pruebas que se han practicado todavía no habrían dado resultados concretos dentro de la Investigación Previa. La autopsia realizada en el Hospital San Roque de Granada Antioquia determinó que la causa de la muerte fue consecuencia natural y directa de las múltiples heridas con arma de fuego.

398. **José Arturo Lara**, recluido en el calabozo N.º1 de la Cárcel Peñas Blancas de Calarcá, Quindío, habría sido golpeado el 11 de enero de 2003, tras discutir con la guardia penitenciaria. Más tarde se habría presentado otra discusión, a lo que los guardianes habrían respondido dándole patadas y golpes de garrote. Posteriormente habría presentado problemas de salud producto de las dos golpizas, ya que hacía tres meses se le había practicado cirugía en el abdomen. Habría sido esposado y llevado a la enfermería del penal, donde le habría sido propinada una tercera golpiza. José Arturo Lara habría fallecido poco después.

399. El Gobierno informó de que la investigación de carácter judicial le correspondía a la Fiscalía 13 de Calarca. Ésta se encontraba en fase de instrucción, con resolución de medida de aseguramiento de detención preventiva sin derecho a la libertad provisional, determinación que fue apelada y confirmada por la fiscalía delegada ante el tribunal. En caso de proferirse resolución de acusación, la investigación sería remitida al Juzgado penal del Circuito por competencia, para que se continase con la etapa siguiente. La identidad de las personas vinculadas al proceso es conocida por el Relator Especial. La investigación de carácter disciplinario la adelantaba la Procuraduría General de la Nación. El Gobierno hizo saber que no disponía de los resultados de la necropsia y los certificados de defunción, ya que éstos correspondían a las investigaciones señaladas, por lo que resultaba imposible determinar la causa real de la muerte. Por esta misma razón se desconocía la identidad de los médicos y los resultados de los exámenes médicos practicados por estos.

400. **Leonardo Andrés Gutiérrez Fandiño**, un recluso de 32 años en la cárcel Modelo, habría sido torturado en los calabozos del Grupo de Acción Unificado para la Libertad de Colombia (GAULA) de la policía frente al batallón de guardia presidencial el 5 y 6 de junio de 2003. Habría recibido golpes en la cara, se le habría aplicado corriente eléctrica en los testículos, una bolsa negra con detergente en polvo habría sido colocada sobre su cabeza y habría sido golpeado hasta perder el conocimiento. Habría sido conducido al hospital El Tunal

donde se le habría diagnosticado una equimosis leve periorbitaria inferior derecha. El 20 de junio de 2003 Leonardo Andrés Gutiérrez Fandiño habría fallecido.

401. El Gobierno informó de que el expediente procedente de la Coordinación de Control Único Disciplinario del INPEC se encontraba en indagación preliminar desde el 11 de agosto de 2004. No fue posible llevar a término la investigación disciplinaria y sobre los motivos se señala que fue avocado conocimiento mediante auto de fecha 28 de Abril de 2004. El Gobierno señaló que la investigación de carácter penal la adelantó la Fiscalía 32 seccional adscrita a la Unidad primera de delitos contra la vida y la integridad personal. Las diligencias preliminares de dicha investigación, a saber, la inspección del cadáver, le correspondieron a la Fiscalía 294 de la URI del Centro. Obtener la información correspondiente al esclarecimiento de las causas de la muerte y el resultado de la autopsia es una tarea que concierne a ésta Fiscalía. El Gobierno señaló que de acuerdo con la autopsia realizada, no se evidenciaron lesiones traumáticas. Sin embargo, en el examen interno practicado llamó la atención la presencia de un edema cerebral y pulmonar marcado, acompañado de fluidez hemática y congestión visceral generalizada. Hasta la fecha, no se tenía conocimiento de la identidad de los presuntos responsables.

402. Por carta de fecha 19 de marzo de 2004, el Relator Especial, juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Representante Especial del Secretario General para los defensores de los derechos humanos, notificó al Gobierno que recibió información sobre los casos individuales siguientes:

403. **Emanuel Rivero,** defensor de derechos humanos y integrante de la Fundación Comité Regional de Derechos Humanos Joel Sierra, habría sido golpeado cuando tropas del Batallón Revéiz Pizarro habrían allanado su casa en el barrio Vicente Primera Etapa, departamento de Arauca, el 1 de octubre de 2002. Emanuel Rivero se habría identificado como integrante de la Fundación en Saravena y habría explicado a los soldados que la documentación que tenía eran materiales proporcionados por el Colectivo de Abogados José Alvear Restrepo y Humanidad Vigente, dos organizaciones no gubernamentales colombianas, ya que estaba capacitándose en derechos humanos. Los soldados le habrían respondido que se trataba de documentación política del Ejército de Liberación Nacional (ELN) y le habrían golpeado en la cara, mientras habrían seguido allanando la casa. Los soldados habrían encontrado unos videos de movilizaciones campesinas que habrían calificado como relacionados con la guerrilla y le habrían golpeado de nuevo. Los soldados también habrían encontrado un estuche de cirugía que empleaba para hacer las prácticas del bachillerato agrario y le habrían dicho que lo utilizaba para auxiliar a la guerrilla. Posteriormente se lo habrían llevado en una camioneta donde un soldado habría continuado pegándole hasta el punto que otro militar le recriminó. Una vez en la base del Batallón Revéiz Pizarro lo habrían tirado al suelo boca abajo y con las manos atadas. Habría pasado la noche atado a una ventana junto a un sofá. Al día siguiente habría sido interrogado sin atender la reclamación de que hubiera presencia de la Personería o de un abogado. Habría sido puesto en libertad unas horas más tarde pero no le habrían devuelto los documentos decomisados.

404. **Eduardo Peña Chacón**, 19 años, **Ronald Peña Chacón**, 15 años, **Pedro Jaime Mosquera, Martino Mosquera** miembros de la Asociación Campesina de Arauca (ACA) asi como **Reinel Hermosa,** familiar de un socio de la ACA, que habrían sido detenidos el 16 de mayo de 2003 por agentes de la Fuerza Pública en los municipios de Saravena y de Arauquita,

departamento de Arauca. ACA, una organización no gubernamental contaría con medidas cautelares de protección dictadas por la Comisión Interamericana de Derechos Humanos, pero sería objeto de constantes intimidaciones, señalamientos y agresiones por parte de agentes estatales y por los paramilitares de las Autodefensas Unidas de Colombia (AUC). Los hermanos Peña Chacón y Reinel Hermosa habrían sido conducidos al puesto de policía de Arauquita, donde a Ronald y Eduardo Peña Chacón les habrían puesto bolsas de plástico en la cabeza, los habrían sumergido en agua, los habrían golpeado y los habrían acusado de ser guerrilleros. Habrían sido puestos en libertad diez horas más tarde sin recibir ningún tipo de explicaciones. Reinel Hermosa también habría sido golpeado y posteriormente trasladado a la cárcel de Arauca.

405. Por carta de fecha 18 de marzo de 2004, el Relator Especial, juntamente con la Representante Especial del Secretario General para los defensores de los derechos humanos, notificó al Gobierno que había recibido información según la cual **Juan Carlos Celis González**, defensor de derechos humanos y miembro de la Corporación Movimiento por la Vida, habría sido detenido en su apartamento por miembros de la Policía Nacional el 11 de diciembre de 2002 en Bogotá. Ese mismo día, las fuerzas públicas habrían llevado a cabo cerca de 50 allanamientos en toda la ciudad. En el apartamento, Juan Carlos Celis González habría sido insultado, puesto boca abajo en el suelo, esposado y golpeado. Su cabeza habría sido tapada con una chaqueta. También habría sido sometido a choques eléctricos. Los agentes habrían manipulado una grabadora y le habrían ordenado que confesara que era responsable de unos atentados. Ese mismo día, habría sido trasladado a las instalaciones del Servicio de Investigaciones Judiciales e Inteligencia de la Policía (SIJIN), sin permitirle informar a sus familiares de que había sido detenido. Su detención habría sido oficializada mediante la firma de un acta donde no habrían constado los motivos de su captura. Habría sido obligado a firmar un acta de buen trato durante el procedimiento de registro de su lugar de habitación. Durante la diligencia de indagatoria, Juan Carlos Celis González habría puesto en conocimiento de las autoridades las torturas de las que habría sido víctima por parte de los miembros de la Policía Nacional, pero no se habrían practicado los exámenes de medicina legal ni se habría iniciado investigación alguna tendiente a esclarecer los hechos. Por otra parte, se habría adelantado una investigación penal en contra de Juan Carlos Celis, por los cargos de terrorismo, rebelión y fabricación, tráfico y porte ilegal de armas en la modalidad de almacenamiento.

406. Por carta de fecha 28 de julio de 2004, el Gobierno informó de que en la investigación penal adelantada en contra de Juan Carlos Celis González no se acredita que éste haya sido insultado, puesto boca abajo, esposado y golpeado ni sometido a choques eléctricos. Tampoco obra en el proceso ninguna grabación que contenga confesión alguna por parte suya. Después de que el detenido diera a conocer los atropellos a los que fue sometido, se ordenó iniciar una investigación respecto a ellos. La investigación se halla en Preliminar en Averiguación de los responsables y se encuentra en práctica de pruebas. Por otra parte, se dictó medida de aseguramiento contra Juan Carlos Celis González consistente en detención preventiva sin beneficio de excarcelación.

407. Por carta de fecha 23 de marzo de 2004, el Relator 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 la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, notificó al

Gobierno que recibió información según la cual **O. F.**, una menor de 16 años de edad, quien se encontraba en estado de gestación, 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 **Daniel Linares Sánchez, Nilson Delgado** y **Samuel Linares Sánchez**. Así mismo, **Marcos López Díaz** y **Narciso Fernández** habrían sido heridos y **Maribel Fernández** y dos niñas más 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 habrian desplazado hacia Saravena y la Casa Indígena de Tame, la cual habría sido objeto de filmaciones por miembros del Grupo Mecanizado Revéiz Pizarro del Ejército, quienes habrían registrado a las personas de la casa indígena.

408. Por carta de fecha 25 de marzo de 2004, el Relator Especial, juntamente con la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, notificó al Gobierno que había recibido información sobre los casos individuales siguientes. Por carta fecha 10 de septiembre de 2004 el Gobierno respondió.

409. **Eloísa Monterrey** 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 boca abajo y les habrían robado todas sus pertenencias. Eloísa Monterrey 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 al lugar 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 Revéiz 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.

410. El Gobierno informó de que la Fiscalía de Saravena inició la investigación de los hechos denunciados, a saber, hurto calificado y agravado y acceso carnal violento agravado. Se facilitó un informe sobre el que se inició la investigación y se procedió a la detención de los presuntos autores, cuya identidad es conocida por el Relator. 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 detenidos la situación fue resuelta 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.

411. **María Linderia Mancipe Rojas** 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 a la toma del 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 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 bebida y comida 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.

412. 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.

413. **Cuatro mujeres** de San Benito Abad, Sucre, habrían sido víctimas de violación sexual por parte de paramilitares de las AUC. Los hechos habrían ocurrido el 23 de agosto de 2002, cuando un grupo de aproximadamente 60 paramilitares habrían hecho una incursión 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.

414. El Gobierno informó de que se inició el proceso a cargo del Fiscal Primero Especializado y que en la actualidad se enccontraría 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.

415. Por carta de fecha 25 de marzo de 2004, el Relator Especial, juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, notificó al Gobierno que había recibido información según la cual **Mercedes Corredor**, 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.

416. Por cartas de fecha 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.

417. Por carta de fecha 7 de abril de 2004, el Relator Especial notificó al Gobierno que había recibido información sobre los casos individuales siguientes. Por cartas de fecha 26 de julio, 30 de agosto, 10 de septiembre y 7 de octubre de 2004, el Gobierno respondió a alguno de estos casos.

418. **Einer de Jesús Vargas García** habría sido detenido el 13 de enero de 2001 en Santa Cruz, jurisdicción de Cocorná, Antioquia, por miembros del ejército. En el momento de su detención, habría recibido patadas y golpes por todo el cuerpo. Habría sido tendido en el suelo y tres fusiles le habrían sido introducidos en la boca. Habría sido arrastrado por el piso con las manos atadas detrás de la espalda. También habría recibido golpes de culata de fusiles en la nuca. Un soldado le habría mordido en el brazo. Habría sido encarcelado en la cárcel Bellavista de Medellín, Antioquia. Habría interpuesto una denuncia ante un coronel del Ejército perteneciente al batallón Juan del Corral.

419. El Gobierno informó de que no hay constancia dentro de la investigación de que se haya presentado denuncia por malos tratos en el momento de su detención.

420. **Fabio Torres Álvarez**, recluido en la cárcel Bellavista de Medellín, Antioquia, habría recibido una paliza a manos de un guardián del INPEC el 22 de febrero de 2001. Los golpes recibidos le habrían ocasionado una perdida de conocimiento y una herida en la cabeza que habría necesitado siete puntos de sutura.

421. El Gobierno confirmó que fue golpeado por un guardián e informó de que la dirección del Establecimiento Penitenciario y Carcelario de Medellín inicio una investigación disciplinaria. Se impuso una sanción de suspensión de 20 días al responsable del maltrato del interno. El Gobierno precisó que no se trata de un caso de tortura sino de extralimitación de funciones por parte de un guardián. El Gobierno también proporcionó información sobre las acciones realizadas en el establecimiento para garantizar el respeto a los derechos humanos de los presos.

422. **Jorge Eduardo Hoyos** habría sido detenido el 1 de marzo de 2001 en su casa ubicada en la vereda El Diamante, jurisdicción rural del municipio de Cali, Valle, por siete militares del batallón Pichincha. Habría sido interrogado sobre unas radios de comunicación y sometido a patadas y golpes. Una bolsa de plástico habría sido colocada en su cabeza provocándole sensación de asfixia. Los soldados también habrían dificultado su respiración introduciéndole una toalla mojada en la boca. Posteriormente habría sido conducido a la cárcel del distrito judicial Villahermosa de Cali, Valle, donde se encontraría recluido. El 7 de marzo de 2001 habría confirmado estas alegaciones durante su declaración ante la Fiscalía.

423. El Gobierno informó de que en la actualidad el afectado goza de libertad desde el 18 de febrero de 2003 y facilitó una relación de las diferentes iniciativas adoptadas. Se solicitó a la personería municipal de los Derechos Humanos del Valle información sobre la existencia de queja presentada por el damnificado por los hechos acontecidos el primero de marzo de 2001, con resultados negativos. Asimismo se consultó ante la Fiscalía Seccional la existencia de denuncia penal con resultado también negativo y el caso no estaba ni siquiera registrado en la Procuraduría. La Oficina de Derechos Humanos de la Tercera Brigada también fue consultada y la información relevante al caso no había sido procesada todavía en el sistema. En la Defensoría Regional del Pueblo constaba una denuncia a nombre del señor Jorge Eduardo Hoyos pero no fue posible hallar más información debido a que el archivo correspondiente al caso no había sido todavía registrado. Finalmente fueron consultados los archivos de la Oficina de Derechos Humanos y tampoco constaba registro alguno. El Gobierno confirmó tener constancia de los hechos en virtud de las alegaciones contenidas en la indagatoria rendida el 7 de marzo de 2001. Hizo constar en todo caso que la exploración médica efectuada no detectó ninguna anomalía. Se desconocía si había algún tipo de investigación de orden penal o disciplinario abierto. Así mismo se informó de que no había sido impuesta sanción alguna, y se desconocía si la familia había percibido compensación por los hechos acontecidos. Tampoco existía conocimiento de la identidad de los supuestos torturadores ya que no fue formulado por el damnificado cargo alguno contra personas concretas en la indagatoria mencionada.

424. **Evelio Antonio Castaño C.** habría sido detenido el 6 de marzo de 2001 en el sector de La Playa de la vereda El Edén, jurisdicción de Cocorná, Antioquia, por miembros del batallón contraguerrilla N.º 4 de Granaderos. Tras su detención, habría permanecido atado a una malla de un campo de fútbol durante dos días, a pesar de las altas temperaturas y la intemperie. Habría recibido patadas, golpes y amenazas de muerte. Por las noches, habría sido atado a una cama con los ojos vendados. Posteriormente habría sido recluido en la cárcel de Bellavista de Medellín, Antioquia.

425. **Ramón Alonso Urrea Montoya** habría sido detenido el 6 de marzo de 2001 en el sector de La Playa de la vereda El Edén, jurisdicción de Cocorná, Antioquia, por miembros del batallón contraguerrilla N.º 4 de Granaderos. Tras su detención, habría permanecido atado al aire libre en un campo de fútbol. Habría recibido patadas. Por las noches, habría sido atado a una cama con los ojos vendados. Posteriormente habría sido recluido en la cárcel de Bellavista de Medellín, Antioquia.

426. **Jesús Gómez Zuluaga** habría sido detenido el 6 de marzo de 2001 en el sector de La Playa de la vereda El Edén, jurisdicción de Cocorná, Antioquia, por miembros del batallón contraguerrilla N.º 4 de Granaderos. Tras su detención, habría permanecido atado durante dos días al aire libre con los ojos vendados en un campo de fútbol. Habría recibido patadas. Posteriormente habría sido recluido en la cárcel de Bellavista de Medellín, Antioquia.

427. **John Fredy Soto Ruíz**, **Juan Felipe Quintero**, **Gabriel Hernando Marín Botero** y **Luis Carlos Zuluaga** habrían sido detenidos el 11 de marzo de 2001 en la vereda Mazotes, jurisdicción de Cocorná, Antioquia, por un oficial adscrito al batallón de contraguerrilla N. 4 de Granaderos y cuyo nombre ha sido llevado a conocimiento del Relator Especial. Los detenidos habrían sido llevados al coliseo del municipio, vendados y esposados, y atados a una malla del coliseo durante dos días. Habrían recibido patadas. Habrían sido recluidos en la

cárcel Bellavista de Medellín, Antioquia. Se habría presentado una denuncia sobre estos hechos ante la Personería de Rionegro, Antioquia.

428. **Alexander Castillo** (conocido también como **Clareth Alexandre Castrillon Londoño**), recluso en la cárcel Bellavista de Medellín, Antioquia, habría sido trasladado sin previo aviso a Montería, Córdoba, el 20 de abril de 2001. Habría sido golpeado con culatas de armas y habría recibido patadas, en particular en la cara, la cabeza y las piernas. En la cárcel de Montería habría sido atacado por parte de reclusos supuestamente relacionados con grupos paramilitares. Los hechos habrían sido denunciados ante órganos de control.

429. El Gobierno informó de que los traslados se realizan sin previo aviso para garantizar la seguridad del interno y del personal de custodia y vigilancia. Con respecto a los golpes supuestamente recibidos por el preso en la cárcel de Montería, en los archivos de este establecimiento penitenciario no constaría información alguna sobre este incidente.

430. **Marcos Fidel Suárez**, **Otoniel de Jesús de Montoya** y **José Arnulfo Arias García**, recluidos en la cárcel Bellavista de Medellín, Antioquia, habrían sido golpeados el 5 de junio de 2001 por guardias del INPEC, cuando se realizó una requisa sorpresiva en el patio n.º 5 de la cárcel. Se habría presentado una denuncia ante los órganos de control y ante la Comisión Interamericana de Derechos Humanos.

431. El Gobierno informó de que en los archivos de la regional Noroeste no reposa recibo de queja o denuncia alguna al respecto.

432. **Roger Alberto Pulgarcín**, **Yan José Silva**, **Gerson Evelio Aguirre** y **Alexander Garzón** habrían sido detenidos por efectivos pertenecientes al comando operativo de la estación de Policía de Laureles el 10 de septiembre de 2001 durante un allanamiento en el barrio La Independencia No. 2, ubicado en el sector centro-occidente de Medellín, Antioquia. Habrían sido golpeados y amenazados con perros y mantenidos incomunicados. Las golpizas habrían ocasionado contusiones, hematomas y, en el caso de Gerson Evelio Aguirre, la fractura de un dedo de la mano. Los heridos habrían sido examinados por un médico legista. Posteriormente habrían sido encarcelados en la cárcel Bellavista de Medellín, Antioquia. Una denuncia habría sido presentada ante la Defensoría del Pueblo.

433. El Gobierno informó de que el Fiscal de la Unidad Primera Local 11, Delegado ante Jueces Penales Municipales conoce del caso por delitos de lesiones personales.

434. **José Manuel Mejía** y **Eusse de Jesús Gómez** habrían sido detenidos por efectivos de la comisaría de policía del barrio de Guadalupe en la comuna nororiental de Medellín, Antioquia, el 15 de septiembre de 2001. Habrían sido golpeados y obligados a comer comidas amargas y con orines. Las golpizas habrían ocasionado a José Manuel Mejía una herida en los testículos. Los dos hombres habrían sido amenazados con ser entregados a las AUC para que les mataran. También habrían recibido amenazas de muerte contra sus familias respectivas. Posteriormente habrían sido encarcelados en la cárcel Bellavista de Medellín, Antioquia. Eusse de Jesús Gómez habría sido puesto en libertad desde entonces. Una denuncia sobre estas alegaciones habría sido presentada el 20 de septiembre de 2001 ante los órganos estatales de control.

435. El Gobierno informó de que el caso fue asignado al Fiscal 109 Local.

436. **Jhon Jairo Morales Piedrahita** habría sido detenido el 16 de octubre de 2001 en Granada, Antioquia, por miembros de la cuarta brigada y entregado a la policía de este municipio. Le habrían cubierto la cabeza con una bolsa plástica, lo que le habría dificultado la respiración. Habría sido amenazado de muerte con un arma introducida en la boca. Su esposa también habría sido amenazada. Posteriormente habría sido encarcelado en la cárcel Bellavista de Medellín, Antioquia.

437. **José Eduardo Santos** habría sido detenido el 20 de octubre de 2001 en una casa de la vereda Asogue, jurisdicción de Cajibío, por varios hombres armados que se identificaron como paramilitares. Habría sido amenazado de muerte y golpeado con patadas por un capitán. Habría sido obligado a caminar varios kilómetros hasta el casco urbano de Cajibío, Cauca, portando una mina. Posteriormente habría sido encarcelado en la penitenciaría San Isidro de Popayán, Cauca.

438. El Gobierno informó de que no constaba en el mencionado establecimiento penitenciario queja ni investigación sobre el particular. El Departamento Administrativo de Seguridad informó con fecha de 9 de Julio de 2004 de que en los registros de la Penitenciaria Nacional de San Isidro de Popayán aparecía el nombre del particular y señaló que fue sindicado por delito de rebelión. El Gobierno informó de que la persona mencionada se encontraba en la actualidad con libertad condicional.

439. **B. A. G. P.**, 17 años, habría sido detenido el 14 de enero de 2002 y posteriormente conducido a la estación de policía del barrio Villatina de Medellín, Antioquia. En el momento de su detención, habría sido tirado al suelo y golpeado en la cara y la cabeza con la culata de un fusil. Se habría interpuesto una denuncia ante la Defensoría del Pueblo.

440. El Gobierno informó de que el caso por delito de lesiones personales fue asignado al Fiscal 81 Local el 1 de Julio de 2004.

441. **Oscar Emilio Saavedra Mesa** habría sido atacado por agentes de la estación de policía Villatina de Medellín, Antioquia, el 22 de enero de 2002. Su cabeza habría sido sumergida por la fuerza en una caneca de agua mientras uno de los agentes habría ordenado a otro que le matara de tal forma que pareciera un accidente. Posteriormente habría sido encarcelado en la cárcel Bellavista de Medellín, Antioquia. Se habría presentado una denuncia ante la Defensoría del Pueblo.

442. El Gobierno informó de que el caso por delito de tortura fue asignado a una unidad especializada el 1 de Julio de 2004.

443. **Tiberio Cerpa**, **José Abelardo Ordóñez** y otros dos presos de la penitenciaría San Isidro de Popayán, Cauca, habrían sido conducidos por la fuerza y a empujones, el 1 de julio de 2002, a las celdas de tratamiento especial del pabellón 10, donde habrían sido golpeados en el estómago y en las piernas.

444. El Gobierno informó de que en el Certificado Medico expedido por el doctor no consta que fuera efectuada, ni siquiera solicitada una valoración medica al particular, en

relación con los hechos narrados por el mismo. No existe en el Establecimiento Penitenciario denuncia ni investigación alguna que tenga relación con estos hechos.

445. **José Luis Álvarez Herrera** y otros reclusos de la Penitenciaría la Picota, Bogotá, habrían sido sacados de la penitenciaria y conducidos a un campo de fútbol el 13 de noviembre de 2002 por orden del capitán encargado de vigilancia. Los detenidos habrían sido llevados totalmente desnudos y habrían permanecido en esa condición durante varias horas. Esta medida se habría debido a que se estaba llevando a cabo la selección de personas que serían trasladadas a la nueva penitenciaría de Cómbita. Algunos internos que pidieron explicación sobre la decisión y se habrían negado a ser llevados a la nueva cárcel, habrían sido golpeados por la guardia mientras estaban esposados de pies y manos. José Luis Álvarez Herrera, quien se encontraba en los patios de seguridad, habría sido golpeado y trasladado a Cómbita.

446. **José Estein Robayo**, **Didier Cárdenas** y otro joven habrían sido detenidos en el municipio El Castillo, Departamento de Meta, y puestos a disposición de la policía local el 15 de diciembre de 2002. Acompañado de ocho paramilitares, el párroco del municipio habría golpeado José Estein Robayo y afirmado que el joven era miembro de la guerrilla y que tenía que ser asesinado. Los tres detenidos habrían sido torturados por agentes de la policía y paramilitares.

447. El Gobierno informó de que existe constancia de que los afectados fueron trasladados por el personal del Escuadrón Móvil de Carabineros (EMCAR) al SIJIN de Villacencio donde fueron puestos a disposición de la autoridad competente. No había mención alguna a los hechos denunciados por el relator especial. El Gobierno facilitó información relativa al ingreso de los damnificados en las instalaciones de la seccional de Policía Judicial, Villavicencio con fecha de 16 de diciembre de 2002. También se señaló que los sujetos mencionados fueron puestos a disposición de la Fiscalía Novena Especializada, por los delitos de Rebelión y presunta participación en el atentado terrorista perpetrado en Castillo Meta el 15 de diciembre de 2002.

448. **Carlos Montoya**, médico, se dirigía de Puerto Inírida al Sejal, jurisdicción del departamento de Guainía por el río Guaviare, el 16 de enero de 2003, a reunirse con autoridades indígenas del pueblo Guahibo, con el fin de establecer la ubicación de un nuevo puesto de salud, cuando la lancha en la que viajaba habría sido atacada por un avión de las Fuerzas Militares de Colombia, el cual habría disparado varias ráfagas de ametralladora en contra de la motonave. Unas horas más tarde, el médico habría sido detenido por miembros del Ejército Nacional, quienes lo habrían bajado con violencia de la motonave, le habrían disparado a los pies y a la altura de las orejas, lo habrían arrojado al suelo y pisado. Habría sido acusado de ser médico colaborador de la guerrilla. El comandante de esa unidad lo habría interrogado y entregado a la Infantería de Marina, que a su vez lo habría entregado a la Policía Nacional. En las instalaciones de la Policía habría sido interrogado y acusado de terrorismo e informado de que existía un proceso judicial en su contra. No le habría sido permitido dormir durante dos días. La Procuraduría Delegada Disciplinaria para la Defensa de los Derechos Humanos habría adelantado indagación preliminar en contra de miembros de la Fuerza Pública. También se habría presentado una denuncia penal ante la Fiscalía General de la Nación, donde se habría adelantado una investigación previa.

449. **John Jairo López** y su amigo **Miguel Ángel** habrían sido torturados el 10 de enero de 2003 por soldados del Batallón Revéiz Pizarro que estaban patrullando por el barrio Las Flores de Saravena, departamento de Arauca. Delante de toda la población, habrían sido tratados de guerrilleros y amarrados boca arriba. Habrían permanecido en esta posición a pleno sol toda una mañana, siendo golpeados e insultados. Los hijos de John Jairo, de 2 y 3 años de edad, quienes se habrían acercado, llorando, a tocar a su papá, habrían sido echados a empujones por los soldados. Se alega que un militar habría disparado al aire y otro contra un soldado, quien habría resultado herido, con el objetivo de poder justificar que John Jairo López y su amigo les habían disparado. Finalmente, habrían sido llevados detenidos a Arauca. Se ha expresado preocupación ante el hecho que estos incidentes hayan podido producirse en Saravena, uno de los tres municipios del departamento de Arauca declarados, en septiembre de 2002, como "zonas de rehabilitación y consolidación" con el supuesto objetivo de restablecer el orden público y proteger a la población civil.

450. El Gobierno informó de que los afectados fueron puestos a disposición de la Fiscalía Estructura de Apoyo ubicada en la 18.ª brigada en la fecha 9 de enero de 2003, por presunto delito de terrorismo y rebelión. Con posterioridad a la indagatoria en la cual los afectados fueron escuchados y puestos en libertad, la citada fiscalía expidió órdenes de captura por los delitos mencionados. La investigación se puso en conocimiento de la Fiscalía de derechos Humanos de Cucuta.

451. **Los internos del patio n.º 3 de la Penitenciaría de Alta Seguridad de Popayán**, Cauca, habrían sido golpeados y sometidos a gases lacrimógenos cuando la guardia habría entrado violentamente en el patio, tras una discusión y una riña entre internos, el 3 de febrero de 2003. Los gases lacrimógenos habrían producido diarrea y asfixia, y varios reclusos habrían resultado heridos. Uno de ellos, **Jorge Adán Acevedo Toro**, habría sido lanzado desde el segundo piso del pasillo por los guardias del INPEC. La caída le habría provocado lesiones graves y en particular una fractura de la columna. El ataque contra los presos del patio n.º 3 habría provocado la reacción de 150 internos del patio contiguo, quienes habrían pedido que no golpearan a sus compañeros. Como la guardia habría continuado agrediéndolos, habrían protestado impidiendo que los guardianes los contaran y subiendo al segundo piso de las celdas. Esta protesta también habría sido brutalmente reprimida por 200 guardias del INPEC, quienes habrían lanzado gases lacrimógenos y habrían golpeado a los presos con garrotes, ocasionando desgarros musculares en las piernas en dos internos de edad avanzada. Los internos habrían denunciado los hechos a través de emisoras de radio. La dirección de la cárcel y los funcionarios del INPEC habrían tomado represalias contra los internos y contra los familiares. Estos hechos habrían sido denunciados ante la Procuraduría regional del Cauca.

452. El Gobierno informó de que disciplinariamente la investigación fue remitida a la Procuraduría General de la Nación y actualmente la Fiscalía adelantaría la investigación penal con respecto a los hechos ocurridos el 3 de febrero de 2003. Asimismo hace constar que de acuerdo con los registros de la Penitenciaria Nacional de San Isidro de Popayán el particular fue condenado por acceso carnal violento el 11 de marzo de 2003 y trasladado al anexo Psiquiátrico del Hospital Evaristo García de Cali por problemas mentales y de comportamiento.

453. **Néstor Javier Moncada González**, **Wilder Mejía**, **José Antonio Sánchez** y **Neider Prada López**, presos en la penitenciaría La Modelo de la ciudad de Cúcuta, Norte de Santander, habrían sido agredidos verbalmente, amenazados y golpeados el 21 de febrero de 2003, cuando la guardia penitenciaria habría practicado una requisa a los detenidos del patio n.º 1.

454. El Gobierno informó de que la Defensoría del Pueblo de la ciudad de Cucuta junto con la Fiscalía Delegada para los Derechos Humanos y Procuraduría adelantan las investigaciones respectivas. Hizo saber que se había implementado la figura del Cónsul en los Establecimientos Penitenciarios, lo cual facilitaba y aumentaba el conocimiento en materia de derechos humanos. Respecto al caso, hubo una denuncia por parte de la Dirección del Establecimiento Penitenciario, formulada ante la Oficina de la Defensoría del Pueblo, la Fiscalía Delegada para los Derechos Humanos y la Procuraduría. El seguimiento lo habían realizado los mismos entes de control. No había respuesta sobre una posible compensación percibida por la victima o familiares ya que los entes mencionados no habrían fallado al respecto. El Gobierno informó de que los hechos denunciados seguían siendo motivo de imputación dentro de las investigaciones que corresponden a la Fiscalía Cuarta de la Unidad Administración Publica de Cucuta. Se hizo saber que la Procuraduría Regional de Norte de Santander adelantaba una investigación de carácter disciplinario e independiente cuyo estado actual se desconocía.

455. **Ricardo Cómbita Tapias**, **Luis Alejandro Sarmiento Hernández**, **Édgar Ortegón**, **Yonathan Stiven Duarte**, **Enrique Pérez Rodríguez**, **Wilson Quitián Ruiz**, **Julio Enrique López Martínez** y **Edwin Rivera Romero**, reclusos en de la Penitenciaría de Cómbita, Boyacá, habrían sido brutalmente golpeados el 7 de marzo de 2003 en el patio n.º 2 del complejo penitenciario.

456. El Gobierno facilitó una relación de las unidades a las que fueron trasladados e informó de que actualmente no cursaba investigación alguna.

457. **Luis Manuel Valencia** habría sido detenido el 19 de marzo de 2003 en Bogotá por miembros del Cuerpo Técnico de Investigaciones de la Fiscalía. Habría sido introducido en una camioneta de color azul oscuro de vidrios polarizados y conducido a un sótano del edificio de la Fiscalía General de la Nación, sin registrar su entrada como detenido. En esta habitación, tres personas que no se identificaron le habrían tomado fotografías y sujetado con correas a unas argollas fijas en la pared. Posteriormente, lo habrían hecho desnudar y colocado cables con corriente en varias partes del cuerpo, golpeándolo sucesivamente con un bate de caucho hasta las 12 de la noche. Habría sido sacado de las instalaciones, con el torso desnudo, descalzo y con las manos atadas con los cordones de sus propios zapatos, introducido en un vehículo y abandonado en las inmediaciones del cerro de Monserrate en el sector suroriental de la ciudad. Dos días después habría interpuesto una queja ante la Defensoría del Pueblo. Un médico legista habría examinado su estado físico.

458. **Hernando Micán**, de 21 años de edad, y **Wilson Duarte**, de 31 años de edad, campesinos, habrían desaparecido y habrían sido torturados y asesinados el 30 de marzo de 2003, en Viotá, Cundinamarca, presuntamente por paramilitares de las Autodefensas Campesinas del Casanare, quienes habrían entrado en la región de Viotá días después de que el Batallón Colombia del Ejército Nacional emprendiera un operativo militar en el municipio.

Habrían sido acusados de ser integrantes de los grupos guerrilleros que operan en la región. El cadáver de Wilson Duarte habría sido encontrado el 2 de abril de 2003 con signos de tortura. Antes de ser decapitado habría sido desmembrado. El 8 de abril de 2003 apareció en la vereda Alto Palmar el cadáver de Hernando Micán con visibles señales de tortura, signos de machetazos en la espalda, abierto en el vientre y descuartizado. El cadáver de Hernando Micán habría aparecido a 30 metros de distancia del lugar donde se habría encontrado el cadáver de Wilson Duarte. Estos hechos se inscribirían dentro de la supuesta arremetida paramilitar contra los habitantes del municipio de Viotá iniciada en marzo de 2003, luego de la entrada del Batallón Colombia en la región. Según la Defensoría del Pueblo, estos hechos habrían causado el desplazamiento de un grupo de 1.710 personas. La Fiscalía General de la Nación habría adelantado investigación previa, por los hechos de desplazamiento, torturas y homicidios, cometidos en el municipio de Viotá en el año 2003 por las Autodefensas Campesinas del Casanare.

459. **Jesús Rivera** habría sido detenido el 15 de marzo de 2003 en San José de Apartadó por miembros de la Brigada XVII del Ejército Nacional. Habría sido conducido a una escuela cercana, donde habría sido golpeado y le habrían colocado una toalla mojada en la cabeza. Los miembros de la brigada habrían realizado varios disparos entre las piernas del detenido, quien habría sido amenazado de muerte con un revólver en la cabeza.

460. **Ivorny Oviedo Ramírez** (m) habría sido bajada del autobús en el que se dirigía a su casa en Bogotá el 17 de abril de 2003 por unas personas que se habrían identificado como miembros de la Fiscalía y del Cuerpo Técnico de Investigación (CTI). Tras su detención habría sido trasladada al Batallón PM 13, donde habría sido golpeada en la cara por una mujer que llevaba puesto un pasamontañas. Posteriormente habría sido conducida a una prisión de mujeres y procesada por delito de rebelión.

461. El Gobierno informó de que la investigación fue asignada a la Fiscalía 238 de la Unidad de Delitos contra la Libertad Individual.

462. **Naún Urrego** habría sido detenido el 22 de abril de 2003 en Bogotá y llevado a las instalaciones del Grupo de operaciones especiales (GOES) donde en ocho ocasiones le habrían colocado una bolsa de plástico en la cabeza provocándole asfixia. Le habrían golpeado la cabeza fuertemente. Le habrían introducido municiones en la boca y habría sido amenazado de muerte. También habría recibido amenazas de muerte contra su esposa y sus hijos. Habría sido posteriormente encarcelado en la prisión de La Picota, en Bogotá.

463. El Gobierno informó de que el delito a investigar fue violencia intrafamiliar y que la Fiscalía asignada fue la 39 Local de la Unidad Tercera de Delitos Querellables.

464. **Arley Jiménez**, **Juan Carlos Vallejo**, **Rubén Darío Londoño Uribe**, **Edwin Javier Clales González**, **Huber Guzmán**, **Jaime Ramírez**, **Carlos Daniel Díaz**, **Edgar Alberto Gómez Serna**, **David Bonilla**, **Edilberto Duarte Parra**, **Fernando Rivera**, **Gustavo Leal Leal**, **Oscar Darío Gallego Valencia**, **Carlos Emilio Serrano Rojas**, **Walter Villada Villada**, **Oscar Hernán Castrillón**, **Andrés Lemos**, **Juan David Galeano Echeverry** y **Augusto Vega Monsalve**, presos en la Penitenciaría Nacional de Valledupar, Cesar, habrían sido obligados a desnudarse, habrían sido golpeados brutalmente y habrían sufrido los efectos de gases lacrimógenos. Como resultado de estas agresiones los detenidos

habrían presentado lesiones y heridas de consideración en diferentes partes del cuerpo, algunos en el cráneo. Los hechos habrían ocurrido el día 18 de junio de 2003, cuando los detenidos recluidos en la Torre 5 de la penitenciaría iban a ser contados para ingresar a las celdas. En su carta de fecha 4 de junio de 2003, el Relator Especial ya había notificado al Gobierno información recibida sobre las condiciones de detención en la Penitenciaria Nacional de Valledupar (véase E/CN.4/2004/56/Add.1, párr. 474).

465. El Gobierno informó de que la oficina del grupo local de Control Único Disciplinario del Establecimiento inició una indagación preliminar el 19 de junio de 2003. El 26 de noviembre de 2003 se inició una investigación disciplinaria en contra de seis funcionarios. El 12 de febrero de 2004, la Fiscalía Sexta Delegada ante los Juzgados Penales del Circuito, Unidad de Delitos contra la Administración Pública, profirió preclusión de instrucción a favor de cuatro funcionarios, teniendo en cuenta que los hechos investigados resultaron atípicos. El Gobierno informó de que los exámenes médicos pertinentes fueron realizados y dieron lugar a 26 dictámenes médico legales. El expediente fue puesto a disposición de la Procuraduría General del Cesar, junto con los anexos llegados con posterioridad.

466. Por la misma carta, el Relator Especial notificó al Gobierno que había recibido información según la cual desde el 5 de enero de 2004 un grupo de más de 500 hombres armados y uniformados, que se habrían identificado como miembros de las AUC, habría hecho incursión en las **veredas conocidas con los nombres de Unión-Doradas, Las Doradas, Santo Domingo, Muelas, Sabana y Soya**, en el municipio de Arenal, departamento de Bolívar. De acuerdo con las informaciones recibidas, varios pobladores habrían sido salvajemente golpeados, algunos habrían sido amarrados a los árboles y en general la mayoría habrían sido amenazados, mientras que varias casas de las veredas mencionadas habrían sido quemadas.

467. El Gobierno informó de que el caso había sido tramitado en la Dirección de la Defensoría del Pueblo y que la Fiscalía Seccional 28 de Simiti lleva a cabo investigaciones por delitos de tortura, terrorismo, homicidio, desaparición forzada, secuestro, y otros. Por los hechos acontecidos el 5 de enero de 2004 en las veredas del municipio Arenal Sur.

468. Por carta de fecha 5 de mayo de 2004, el Relator 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 la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, notificó al Gobierno que recibió información sobre **O. F.**, **Daniel Linares Sánchez, Nilson Delgado, Samuel Linares Sánchez**, **Marcos López Díaz**, **Narciso Fernández** y **M. F.** y otras dos niñas violadas (caso citado en una comunicación previa).

469. Por carta de fecha 23 de septiembre el Gobierno declaró que la Defensoría del Pueblo conoció los hechos a través de un documento suscrito por la Federacion Nacional Sindical Unitaria Agropecuaria (FENSUAGRO) y que relataba la ocurrencia de los mismos. También informó de que La Fiscalía General de la Nación es el órgano competente en materia penal, y la Procuraduría General en materia disciplinaria. Respecto a las investigaciones y acciones judiciales o de otro tipo en curso, el Gobierno informó que el caso fue trasladado al Inspector general del Ejercito Nacional para las acciones correspondientes y que además se

solicitó al comando del Ejercito Nacional adoptar las medidas de seguridad que permitieran el reestablecimiento del orden público en la región. Por otra parte, el Gobierno constata que la investigación en relación a un desplazamiento forzado imputado a miembros de las autodefensas y de la guerrilla de las Fuerzas Armadas Revolucionarias de Colombia- Ejército del Pueblo (FARC-EP), se adelanta en la Fiscalía Única Especializada de Arauca. Finalmente y en lo que concierne a los afectados, el Gobierno confirma la muerte de Nilson Delgado y declara sobre la misma que habría resultado de un homicidio y que se sigue la investigación preliminar en la Unidad de la seccional de Cúcuta de la Fiscalía. Reconoce el asesinato de Daniel Linares y explica que no fue posible la localización de sus restos para su exhumación y necropsia respectiva. Añade además que de acuerdo a la documentación militar consultada se puede concluir que no existía tropa del Batallón Navas Pardo en el sitio ni en la fecha en la que ocurrieron los hechos. Tal conclusión fue igualmente asumida por el Despacho Seccional Cúcuta de la Fiscalía. Por último y en lo que respecta a O. F., El Gobierno confirma la violación, asesinato y posterior descuartizamiento de la víctima y reconoce que una patrulla del Ejército con brazaletes de las AUC y ACC se encontraba presente en la comunidad de los Parreros. El Gobierno hace constar no obstante que en relación con la identidad, la forma de muerte y el paradero del cadáver de O. F. existen diferentes versiones entre los indígenas que comparecieron a declarar. Añade además que resulta complicado proceder a la identificación de los indígenas debido a que muchos no están registrados ante ninguna entidad gubernamental y a menudo no es posible proceder a la exhumación de los restos porque las costumbres y creencias locales no lo permitirían.

470. Por carta de fecha 5 de mayo de 2004, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, notificó al Gobierno que había recibido información según la cual **Francisco Guerrero** 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, **Inocencia Pineda Pavón**, 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 que supuestamente cometió los delitos habría sido trasladado a un recinto militar de donde se habría escapado a los pocos días.

471. Por carta de fecha 4 de agosto de 2004, el Relator Especial, juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, notificó al Gobierno que había recibido información según la cual **Fredy Loaiza Tique**, un indígena de 24 años de edad, militante del Partido Comunista Colombiano y de la Unión Patriótica y miembro de la Asociación de Cabildos Indígenas del Tolima (ACIT), habría sido golpeado brutalmente por presuntos paramilitares pertenecientes al Bloque Tolima de las Autodefensas Unidas de Colombia (AUC) que se habrían presentado el 14 de enero de 2003 en la casa de su familia en Coyaima, Tolima. Habría sido atado a un árbol y torturado con un machete. Los paramilitares le habrían hecho varios disparos simulando que lo iban a asesinar. Durante unos instantes de confusión, habría logrado escapar. Los hechos habrían sido denunciados ante el comando de policía de Coyaima, pero no se habría tomado ninguna medida para garantizar la vida e integridad de la familia Tique Loaiza. Nueve días más tarde los paramilitares habrían vuelto a la casa familiar, disparando y lanzando granadas contra las viviendas de los habitantes de Coyaima. La casa de la familia

Tique habría sido incendiada. Ese mismo día la familia se habría desplazado forzadamente hacia Ibagué.

Llamamientos urgentes

472. El 27 de enero de 2004, el Relator Especial envió un llamamiento urgente sobre la situación de **Ivonne Aleida Rodríguez Betancur**, de 34 años, quien habría sido detenida por miembros del Cuerpo Técnico de Investigación de la Fiscalía (CTI), el 2 de octubre de 2003. Se alega que ese día los miembros del CTI habrían instalado un retén cerca de la Urbanización Colinas del Sur, en el barrio Guayabal de Medellín y habrían detenido el vehículo, en el que viajaba Ivonne Aleida Rodríguez Betancur. Habrían procedido a interrogarla y le habrían pedido sus documentos de identificación. Seguidamente se la habrían llevado con su propio vehículo, con rumbo desconocido, dentro de su propio vehículo, escoltada por los vehículos en que viajaban los miembros del CTI. Desde entonces, no se habría tenido informaciones sobre su paradero ni sobre su integridad física y psicológica. Su familia habría denunciado los hechos ante la Fiscal del Gaula de la Policía de Medellín.

473. Por carta de fecha 21 de Septiembre de 2004 el Gobierno informó de que la Fiscalía 53 seccional de Itagüi era la encargada de la investigación penal preliminar desde Diciembre de 2003 por el presunto delito de Desaparición Forzada. Comunicó además que la investigación se encontraba en diligencias previas y que se estudiaba su traslado a la Unidad de Fiscales Delegados ante los Jueces Penales del Circuito Especializados por razones de competencia. Declaró que todo intento de búsqueda por parte del personal de la vigilancia del municipio de Itagüi resultó en vano y que la hipótesis de que su desaparición estuviera motivada por problemas familiares ha cobrado fuerza en la investigación. Por último destaca que la afectada no figura como capturada en el CTI y que tampoco consta que fuera trasladada para alguna diligencia.

474. El 24 de agosto de 2004, el Relator 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 la violencia contra la mujer, con inclusión de sus causas y consecuencias, envió un llamamiento en relación con **dos muchachas de 16 y 17 años del municipio de Sansón**, departamento de Antioquia. Las dos menores 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 a un lugar despoblado. Allí, las habrían desnudado, abusado sexualmente y violado. Tras denunciar la agresión, una de las muchachas 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 Sonsón 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.

475. Por carta de fecha 8 de diciembre de 2004 el Gobierno informó de los delitos de secuestro y acceso carnal del que fueron objeto las afectadas y la imputación de miembros militares de la Brigada IV del Ejército Nacional por su presunta participación en los hechos.

En lo que respecta a la investigación de carácter penal, ésta fue remitida a los Fiscales Especializados de la Dirección Seccional de Medellín y posteriormente al Fiscal destacado ante el Gaula Oriente. La Oficina de Derechos Humanos del Ministerio de Defensa también adelantaría investigaciones.

Seguimiento de comunicaciones transmitidas previamente

476. Por carta de fecha 19 de diciembre de 2003, el Gobierno proporcionó información sobre tres casos incluidos en una comunicación enviada por el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, arbitrarias y sumarias, el 10 de septiembre de 2001.

477. En relación con **Miguel Ángel Guzmán Usuaga**, **Álvaro Guzmán Pérez**, **Jaime Guzmán Silva** y **Juan Carlos Quiroz Higuita** (E/CN.4/2002/76/Add.1, párr. 384), el Gobierno proporcionó información sobre las investigaciones abiertas respecto a este caso. Indicó igualmente que la Procuraduría General de la Nación informó de que se estaba adelantando una investigación disciplinaria que se encontraba en etapa de indagación preliminar.

478. En relación con **Diego Arnulfo Tamayo**, **Eric Tamayo**, **German Valenzuela** y **Dagoberto Velasco** (ibid., párr. 385), el Gobierno informó de que se había adelantado una investigación previa y proporcionó información sobre las actuaciones adelantadas por la Fiscalía hasta febrero de 2003.

479. En relación con los **hechos ocurridos en la Cárcel Nacional Modelo de Bogotá el 27 de abril de 1999** donde habrían sido asesinados 33 presos y 19 habrían resultado heridos (ibid., párr. 386 y E/CN.4/2004/56/Add.1, párr. 491), el Gobierno informó que se adelantó una investigación contra el Comandante Operativo de la Policía y el Comandante del Departamento de Policía Metropolitana de Bogotá. La indagación preliminar terminó en archivo el 19 de diciembre de 2000 por falta de mérito. También se inició una investigación sobre la responsabilidad del Director de la Cárcel Nacional Modelo de Bogotá. Ésta terminó con auto de archivo el 3 de septiembre de 2002 por falta de mérito.

480. Por cartas de fecha 19 de diciembre de 2003 y 8 de marzo de 2004, el Gobierno contestó a un llamamiento enviado el 9 de septiembre de 2003 juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, en relación con la situación de los **habitantes de los barrios de El Chico y Providencia, en Barrancabermeja, y activistas de derechos humanos de la ciudad** (E/CN.4/2004/56/Add.1, párr. 480). El Gobierno informó de que respecto a las desapariciones, la Defensoría del Pueblo había solicitado a los diferentes despachos judiciales que iniciaran las diligencias del Mecanismo de Búsqueda Urgente. El Gobierno indicó que no existía investigación por la existencia de una "lista negra" supuestamente publicada por grupos paramilitares en Barrancabermeja en que figurarían las personas mencionadas en el llamamiento urgente. Las investigaciones respecto a las presuntas desapariciones de Jorge Armando Garzón, Álvaro Enrique Vergara Muñoz y María Yaneth Mosquera Guerrero, el presunto secuestro de Erasmo Pedraza Álvarez y las presentas amenazas contra Frenyi Daniel Jiménez se encontrarían en etapa previa en práctica de pruebas tendientes al esclarecimiento de los hechos. El Gobierno informó igualmente que realizadas las averiguaciones correspondientes, el Ministerio de Defensa Nacional descartó

que existieran denuncias o informaciones concretas que vincularan a miembros del Batallón Nueva Granada, adscrito a la Quinta Brigada del Ejército, a estos hechos. El Gobierno indicó que se encontraban denunciadas ante la Fiscalía Seccional de Barrancabermeja las desapariciones de Muccyney Jair España, Álvaro Enrique Vergara Muñoz, Erasmo Pedraza Álvarez, José Armando Garzón, Julia Sierra y Frenyi Daniel Jiménez. Finalmente, el Gobierno proporcionó información sobre la creación del Comité Interinstitucional de Desaparecidos.

Observations

481. El Relator Especial considerado apropiado llamar la atención sobre ciertas cuestiones reflejadas como motivos de preocupación por el Comité de los Derechos Humanos (CCPR/CO/80/COL párrs.11,15 y16). Al Comité le preocupa en particular el hecho de que siga produciéndose en el Estado Parte un importante número de detenciones arbitrarias, secuestros, desapariciones forzadas, casos de tortura, ejecuciones extrajudiciales y asesinatos; la persistencia de prácticas como arrestos de candidatos y que los asesinatos cometidos contra legisladores en los años anteriores resten impunes. Continúan siendo un blanco de estas acciones los defensores de derechos humanos, dirigentes políticos y sindicales, jueces y periodistas. El secuestro de la candidata a la presidencia Ingrid Betancourt en febrero de 2002 sigue preocupando al Comité, así como el resto de secuestros. Preocupa igualmente al Comité la participación de agentes del Estado Parte en la comisión de tales actos, así como la aparente impunidad de la cual gozan sus perpetradores; el hecho de que la Fiscalía General de la República no haya investigado con la diligencia apropiada a los miembros de las fuerzas armadas y de las fuerzas de seguridad sospechosos de cometer violaciones de derechos humanos en la forma de crímenes, particularmente torturas, desapariciones forzadas y ejecuciones arbitrarias y sumarias y el hecho de que los tribunales militares sigan investigando delitos cometidos por el personal militar que implican torturas, desapariciones forzadas y ejecuciones arbitrarias y sumarias, a pesar de su anterior ineficacia para resolver esos crímenes y de la decisión de la Corte Constitucional que otorgó jurisdicción sobre tales crímenes a los tribunales ordinarios.

Côte d'Ivoire

482. Par lettre en date du 26 mars 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, la Rapporteuse spéciale 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 la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels, le jeudi 25 mars 2004, de violentes manifestations à Abidjan, opposant les manifestants de l'opposition d'un côté et les forces de l'ordre et les milices progouvernementales de l'autre, auraient fait de nombreuses victimes parmi les membres de l'opposition et des forces de l'ordre. Une vingtaine de personnes au moins auraient été tuées, des femmes et des fillettes auraient été violées, et des exactions de 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 se sont inquiétés du 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.

483. Par lettre en date du 30 juin 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion 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, a informé le Gouvernement qu'il avait reçu des renseignements concernant **Dembélé Bazoumana**, journaliste au quotidien « Tassouman », résidant à Abobo. Le 29 octobre 2002, aux environs de 14 heures, alors qu'il venait de quitter son domicile, il aurait été interpellé près du cinéma Liberté par une quinzaine de policiers et gendarmes, et conduit dans des locaux de la gendarmerie où il aurait été soumis à des actes de torture. Dembélé Bazoumana aurait été contraint de se déshabiller et de se coucher à plat ventre. Il aurait ensuite été frappé à coups de barres de fer. Pendant que les coups lui étaient portés, les policiers et gendarmes auraient affirmé qu'ils tueraient tous les Dioulas comme lui. Il aurait ensuite été conduit près de Bingerville et d'un village nommé Ana, dans les environs du camp d'Akouédo. Cet endroit serait connu sous le nom de territoire d'Ana ou de camp Bouaro. Sorti du véhicule, il aurait été placé dans un endroit où se seraient trouvés trois corps en décomposition, et où les policiers et gendarmes se seraient servis de lui comme d'une cible sur laquelle ils auraient tiré à maintes reprises. Le journaliste atteint d'une balle dans le mollet aurait été reconduit à la gendarmerie où il aurait, de nouveau, été soumis à des actes de torture avant d'être transféré à la gendarmerie de Cocody où il aurait passé la nuit. Le lendemain, ayant perdu beaucoup de sang pendant la nuit, il aurait été transféré dans un grand état de faiblesse à la brigade de recherche de la gendarmerie du quartier du Plateau où il aurait passé six jours avant d'être libéré, le 5 novembre 2002. Le Rapporteur spécial a reçu des photographies attestant des blessures infligées à Dembélé Bazoumana.

Appels urgents

484. Le 23 juin 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur le droit de toute personne de jouir du meilleur état de santé physique et mentale susceptible d'être atteint, et le Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée, concernant la situation de réfugiés, parmi lesquels 12 femmes, dont l'une enceinte, et 11 enfants. D'après les informations reçues, une trentaine de réfugiés – parmi lesquels **Alphonso Faroy** (h), réfugié originaire de la Sierra Leone, 32 ans, **Higgins Bernard Jr** (h), réfugié originaire du Libéria, 21 ans, **Mensah Ainankra** (h), réfugié originaire du Togo, 38 ans, **Hortense Lotika** (f), réfugiée originaire de la République démocratique du Congo, 23 ans – auraient été attaqués le 9 juin 2004 par des membres des forces de sécurité ivoiriennes. A 2 heures du matin, alors que les réfugiés se trouvaient dans des immeubles en construction à Attoban, un quartier d'Abidjan, cinq représentants armés des forces de l'ordre vêtus d'uniformes se seraient présentés, auraient tiré des coups de feu en l'air et leur auraient ordonné de sortir de leurs abris et de s'étendre sur le sol. Les réfugiés auraient alors été battus à coups de ceinture et sommés de quitter les lieux sur-le-champ. L'un des membres des forces de l'ordre leur aurait dit qu'il n'y avait pas de réfugiés en Côte d'Ivoire mais seulement des rebelles. Avant de partir, ils auraient dépouillé les réfugiés de tous leurs biens et les auraient menacés de revenir voir s'ils avaient bien évacué les lieux. Ces réfugiés auraient à plusieurs reprises fait l'objet de harcèlement de la part de certains membres de la population locale ainsi

que des forces de sécurité. Ils se cacheraient dans Abidjan et seraient contraints de se déplacer constamment en raison des fréquents contrôles policiers, et par peur de nouvelles menaces et agressions. Leur situation sanitaire, en particulier celle des enfants et de la femme enceinte, se serait aggravée. Les enfants auraient contracté la malaria et n'auraient pas reçu de soins médicaux. Ces réfugiés ne pourraient compter que sur la générosité de certains membres de la population locale pour subvenir à leurs besoins quotidiens en eau et en nourriture.

Croatia

485. By letter dated 16 September 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Tony Atkinson**, a citizen of the Islamic Republic of Iran of British origin. According to the allegations received, on 30 June 2003, he was apprehended after he tried to escape from the Ježevo Reception Centre for Foreigners and was beaten by guards, pushed against a wall and kicked. He sustained bruises on his left knee, right elbow and right shoulder, and was subsequently treated at a hospital in Dugo Selo.

486. By letter dated 3 December 2004, the Government informed that on 30 June 2003, **Tony Atkinson** attempted to escape from the Centre with a group of foreign citizens by forcibly breaking into one of the empty rooms on the upper floor of the Centre, cutting and bending a metal bar on the window, and climbing down to the ground using bed-sheets joined together. The policewoman of the outdoor security manage to prevent him from escaping by using the standard procedure of elbow grip on his right arm, as he was vigorously resisting,. A doctor from the Community Health Centre in Dugo Selo came for a medical examination, and she noted that the policewoman sustained light physical injuries. Tony Atkinson complained about pain in the right elbow and was examined at the Reception Centre, the Community Health Centre, and then at the Dubrava Clinical Hospital, where no injuries were found. The use of physical force was found to have been lawful and justified. On 2 January 2004, he was released from the Centre and did not file a formal complaint to the Centre.

Cuba

487. Por carta de fecha 18 de agosto de 2004, el Relator Especial notificó al Gobierno que había recibido información sobre la situación de **Santiago Cutín Aguilera**, detenido en el Combinado de Guantánamo. Habría sido golpeado en la mandíbula el 18 de julio de 2004. La agresión, supuestamente perpetrada por dos oficiales y un reeducador, habría ocurrido después de que el preso se quejara por la mala alimentación y el trato recibido por algunos prisioneros en el Combinado.

488. Por carta de fecha 16 de septiembre de 2004, el Relator Especial, juntamente con el Relator especial sobre el derecho de toda persona al disfrute del más alto nivel posible de salud física y mental y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, notificó al Gobierno que recibió información sobre la situación de algunas de las personas detenidas en marzo de 2003 y acusadas de participar en actividades consideradas por el Gobierno como subversivas y perjudiciales para el orden interno de Cuba, o favorables al embargo y a otras medidas afines adoptadas por Estados Unidos contra Cuba. La Fiscalía les habría acusado de publicar artículos críticos sobre asuntos económicos, sociales y de derechos humanos en Cuba, de participar en grupos no oficiales considerados por las autoridades como contrarrevolucionarios y de mantener contactos con individuos

juzgados hostiles a los intereses del país. Las personas detenidas habrían sido declaradas culpables en virtud del artículo 91 del Código Penal y de la Ley de Protección de la Independencia Nacional y la Economía de Cuba. Estas personas habrían sido sentenciadas a penas de encarcelamiento de entre 6 y 28 años. Los Relatores Especiales han recibido información reciente según la cual al menos 75 de estas personas encarceladas estarían padeciendo diversas enfermedades de distinta gravedad. No todas estas personas recibirían el tratamiento adecuado para su estado de salud. En particular, los Relatores Especiales han recibido las alegaciones que se enumeran en los párrafos siguientes. El Gobierno respondió a dicha comunicación por carta de fecha 30 de septiembre de 2004.

489. **Víctor Rolando Arroyo Carmona**, 52 años, vicepresidente del Foro por la Reforma, un grupo no oficial, y miembro de la Unión de Periodistas y Escritores Cubanos Independientes (UPECI), que tampoco es oficial. Habría sido condenado a 26 años de prisión. Su lugar de residencia sería Pinar del Río, y estaría cumpliendo condena en la Prisión Provincial de Guantánamo. El 31 de diciembre de 2003 tres guardias lo habrían sacado de su celda, arrastrándolo por el suelo y golpeándolo en la cara y en el cuerpo. Los guardias lo habrían inmovilizado agarrando una de sus piernas con una puerta y siguieron golpeándolo. Esta paliza se habría producido después de que el preso se quejó por ser trasladado a otro edificio de la cárcel, donde presos acusados de delitos comunes se encontrarían recluidos en muy malas condiciones. Víctor Rolando Arroyo Carmona padecería varias dolencias, como hipertensión, dolores de cabeza, pérdida de peso y diarrea. Sus familiares habrían denunciado que no recibe el tratamiento médico apropiado. Se alega igualmente que los guardias penitenciarios trataron de manera humillante a unos familiares, cuando éstos intentaron visitarle en agosto de 2003.

490. El Gobierno en su respuesta negó que el afectado fuera periodista y alegó que era totalmente falso que hubiera padecido malos tratos el 31 de diciembre de 2003. Señaló además que su estado de salud era estable.

491. **Margarito Broche Espinosa**, 45 años, miembro del Comité Ciudadano local, asociación no oficial integrada en la iniciativa del Proyecto Varela, y fundador de un grupo denominado Asociación Nacional de Balseros, Paz, Democracia y Libertad del Centro Norte de Cuba. Habría sido condenado a 25 años de prisión. Su lugar de residencia sería Caibarién, provincia de Villa Clara, y estaría cumpliendo condena en la Prisión de Guanajay, provincia de La Habana. Padecería bronquiectasia, uno de cuyos síntomas sería una tos constante. Sufriría también una úlcera en el intestino delgado e hipoglucemia crónica. Se alega que no recibiría un tratamiento médico adecuado para estas enfermedades. Además, se alega que no habría podido recibir ni enviar correspondencia de forma regular. Según la información recibida, el 3 de enero de 2004 Margarito Broche Espinosa inició una huelga de hambre, con una duración prevista de 75 días.

492. El Gobierno informó de que el estado de salud de Margarito Broche Espinosa era estable.

493. **Próspero Gaínza Agüero**, delegado del Movimiento Nacional de Resistencia Cívica Pedro Luis Boitel, una organización no oficial, en la provincia de Holguín. Habría sido condenado a 25 años de prisión. Su lugar de residencia sería Moa, provincia de Holguín, y estaría cumpliendo condena en la Prisión Provincial de Boniato, provincia de Santiago de

Cuba. Se alega que en julio de 2003, cuando sufría una fiebre muy alta debida a un fuerte ataque de gripe, fue encadenado de pies y manos y trasladado a la enfermería de la cárcel. El 31 de agosto de 2003, junto con otros cinco presos de la prisión de Boniato, habría empezado una huelga de hambre para llamar la atención sobre sus condiciones de reclusión, en particular, higiene deficiente, alimentación escasa y asistencia médica limitada. Inmediatamente, las autoridades penitenciarias habrían trasladado a distintas prisiones a algunos de los huelguistas. Se alega igualmente que como una forma de castigo adicional, no se le habría permitido tener una Biblia en la celda, ni recibir ni enviar correspondencia con la misma libertad o frecuencia que otros presos.

494. El Gobierno informó de que son totalmente falsas tanto las acusaciones por malos tratos referidas a fechas de julio y agosto de 2003, como las acusaciones de prohibir al afectado el ejercicio de su derecho a la libertad de religión y haberle negado la posibilidad de tener una Biblia en su celda. Por ultimó señaló que su estado de salud era estable.

495. **Juan Roberto de Miranda Hernández**, 57 años, fundador y presidente del Colegio de Pedagogos Independientes de Cuba. Habría sido condenado a 20 años de prisión. Su lugar de residencia sería La Habana y estaría cumpliendo condena en la Prisión Combinado del Este, La Habana. Su estado de salud sería delicado. En abril de 2003 habría sido ingresado brevemente en un hospital militar para ser tratado de una afección cardiaca. Posteriormente habría sido sometido a una operación de las válvulas del corazón y a una intervención urgente como consecuencia de una oclusión de la arteria coronaria. Presentaría síntomas como hipertensión y fuertes dolores de cabeza. En octubre de 2003, habría sido sometido a una serie de exámenes médicos en el hospital Hermanos Almejeiras de La Habana. Sin embargo, se alega que no habría recibido tratamiento médico para un quiste de gran tamaño en la espalda. En numerosas ocasiones sus familiares habrían sufrido actos de acoso por parte de las autoridades, como amenazas de detenerlos de forma arbitraria.

496. El Gobierno negó en su respuesta que el afectado fuera pedagogo o estuviera ejerciendo cualquier forma de magisterio. También se informó sobre la falsedad de las alegaciones de supuesta denegación de atención médica para un quiste en la espalda. En este informó de que el afectado ha venido recibiendo permanentemente la atención especializada que ha requerido. En opinión del Gobierno son igualmente insostenibles en la realidad de los hechos las denuncias de acoso, intimidación o coacción de las autoridades contra sus familiares. Por último informó de que su estado de salud era estable.

497. **Miguel Galván Gutiérrez**, 39 años, autor de varios artículos para la agencia de prensa no oficial Havana Press, antiguo presidente del Colegio de Ingenieros y Arquitectos de Cuba, un organismo no oficial, y coordinador de zona del Proyecto Varela. Habría sido condenado a 26 años de prisión. Su lugar de residencia sería Guines, provincia de La Habana, y estaría cumpliendo condena en la Prisión de Agüica, municipio de Colón, provincia de Matanzas. Se encontraría físicamente disminuido como consecuencia de un accidente de tráfico que sufrió en 1998. Su estado de salud se habría deteriorado durante su detención. Según funcionarios de la prisión el deterioro de su estado de salud estaría relacionado varias huelgas de hambre a las que habría participado desde su encarcelación. Padecería diarrea, dolores abdominales, dolores en las articulaciones e inflamación en los pies, así como dificultades en el brazo que tiene impedido. Se alega que funcionarios de la prisión lo han amenazado en repetidas ocasiones con un nuevo juicio por haber redactado, junto con otros

reclusos, un documento dirigido a la Cumbre Iberoamericana celebrada en Bolivia en noviembre de 2003, exigiendo la libertad de las personas encarceladas por motivos supuestamente políticos. Además, a Miguel Galván no se le habría permitido recibir ni enviar correspondencia con la misma libertad o frecuencia que a otros reclusos.

498. El Gobierno negó que fuera periodista e informó sobre la falsedad de las alegaciones de amenazas contra su persona que habrían llevado a cabo funcionarios de la prisión en que se encuentra recluido. Por ultimó señaló que su estado de salud era estable.

499. **Juan Carlos Herrera Acosta**, 37 años, miembro del Movimiento Cubano de Jóvenes por la Democracia y de la Asociación de Presos Políticos Pedro Luis Boitel, organizaciones que no han sido reconocidas por las autoridades. Habría sido condenado a 20 años de prisión. Su lugar de residencia sería Guantánamo y estaría cumpliendo condena en la Prisión Kilo 7, Camagüey. Anteriormente, habría estado recluido en la Prisión Provincial de Boniato, en la provincia de Santiago de Cuba, y en la prisión Kilo 8 de Camagüey. Padecería varias afecciones, entre las cuales destacan úlceras en la piel y problemas cardiovasculares. En la cárcel no habrían podido administrarle el medicamento adecuado para su estado de salud. Cuando unos familiares habrían conseguido el medicamento, no se les habría permitido entregarlo al preso. El 31 de agosto de 2003 Juan Carlos Herrera y otros cinco presos de la prisión de Boniato habrían iniciado una huelga de hambre para llamar la atención sobre sus condiciones de reclusión y quejarse por problemas de higiene deficiente, alimentación escasa y asistencia médica limitada. En el transcurso de esta huelga, habría sido transferido a la prisión Kilo 8, en Camagüey. Se alega que en septiembre de 2003, él y otros presos de la prisión Kilo 8 habrían sido amenazados con la suspensión de las visitas de sus cónyuges y de otros familiares si seguían leyendo la Biblia en sus celdas. Se alega además que como una forma de castigo adicional, no le permitirían hablar por teléfono con sus familiares y no podría recibir ni enviar correspondencia con la misma frecuencia que otros presos.

500. El Gobierno informó de que era falso que se hubiera negado a Juan Carlos Herrera Acosta el acceso a medicamento alguno que hubiera sido prescrito por el personal médico facultativo que lo atiende. Negó categóricamente la posibilidad de que en Cuba la simple lectura de la Biblia pudiera ser objeto de amenazas y fundamentó tales acusaciones falsas en el continuo ejercicio anticubano impuesto por el Gobierno de Estados Unidos a la Comisión de Derechos Humanos. Finalmente señaló que su estado de salud era estable.

501. **Jorge Olivera Castillo**, 41 años, director de la agencia de prensa no oficial Havana Press. Habría sido condenado a 18 años de prisión. Su lugar de residencia sería La Habana y estaría cumpliendo condena en la prisión provincial de Guantánamo. Se alega que en el momento de su detención, Jorge Olivera estaba siendo tratado de una inflamación crónica del intestino, una hernia de hiato, reflujo gástrico, una enfermedad del recto indeterminada e infección parasitaria. En diciembre de 2003 fue sometido a un examen médico en el que se le habría diagnosticado hipertensión, un alto nivel de colesterol e infección por parásitos. Además habría experimentado una gran pérdida de peso. Sus familiares se habrían mostrado preocupados por la posibilidad de que no esté recibiendo la atención médica adecuada para sus enfermedades en la prisión provincial de Guantánamo. Las cartas escritas por el recluso o por sus familiares no llegarían a su destino, y se teme que su correspondencia pueda ser más restringida que la de otros presos como una forma de acoso.

502. El Gobierno negó que fuera periodista e informó sobre la estabilidad de su estado de salud.

503. **Héctor Palacios Ruiz**, 62 años, director del Centro de Estudios Sociales, una organización no oficial, y secretario del Comité de Relatoría de la coalición Todos Unidos. Habría sido condenado a 25 años de prisión. Su lugar de residencia sería La Habana y estaría cumpliendo condena en la Prisión Kilo 5 ½, provincia de Pinar del Río. En noviembre de 2003, Héctor Palacios Ruiz se habría quejado en una de sus cartas del maltrato y de la actitud agresiva del personal de la cárcel. Posteriormente funcionarios de prisiones habrían advertido a algunos familiares de que no dieran cuenta de sus quejas a los medios de comunicación. En enero de 2004 Héctor Palacios habría empezado a sufrir diarrea y presentado infección de oídos, hipertensión y problemas de riñón y vesícula biliar. En febrero de 2004, habría sido hospitalizado para ser operado de la vesícula. Las autoridades penitenciarias habrían señalado que sería sometido a una intervención quirúrgica para paliar este problema, pero no se habría comunicado la fecha de la operación. Sus familiares también habrían sido objeto de acosos. En septiembre de 2003, a su esposa, Gisela Delgado, directora ejecutiva del Proyecto de Bibliotecas Independientes de Cuba, se le habría denegado el permiso que había pedido para salir del país con el fin de atender una invitación de los organizadores de una feria de libros celebrada en la ciudad sueca de Gotemburgo. Las autoridades le habrían dicho que "una contrarrevolucionaria" no podía abandonar el país.

504. El Gobierno informó sobre la falsedad de las alegaciones, en virtud de las cuales el afectado habría sufrido malos tratos o agresiones por parte del personal de la prisión. Indicó igualmente que las alegaciones de advertencias, amenazas o acoso contra sus familiares eran falsas. Por último informó de que su estado de salud era estable.

505. **Ariel Sigler Amaya**, 39 años, miembro del grupo no oficial Movimiento Opción Alternativa. Habría sido condenado a 20 años de prisión. Su lugar de residencia sería Pedro Betancourt, provincia de Matanzas, y estaría cumpliendo condena en la Prisión Provincial de Ciego de Ávila. Habría estado recluido en una celda de castigo sin luz ni agua adecuadas. Según informes, sus familiares estarían preocupados por su mal estado de salud. Habrían asegurado que no recibe la alimentación ni la atención médica adecuada y acusado a las autoridades penitenciarias de no facilitarles información sobre su estado de salud. Entre otras dolencias, padecería rigidez muscular, que le impide hablar y moverse con normalidad. En enero de 2004, se le habría prohibido leer la Biblia.

506. El Gobierno informó de que era falso que el afectado hubiera estado recluido en condiciones de limitación de luz o agua. En opinión del Gobierno era igualmente falso que se le hubiera negado el acceso a la información sobre su estado de salud, derecho que se garantiza *per se* a todo recluso mediante personal facultado para ello. Por ultimo informó de que su estado de salud era estable y negó que se le hubiera prohibido en alguna ocasión leer la Biblia.

507. El Gobierno informó de que al margen de las consideraciones de carácter personal realizadas en respuesta a diferentes hechos que consideraron especialmente ofensivos hacia su política, enumeró una serie afirmaciones en relación con las circunstancias que motivaron las alegaciones de los ciudadanos mencionados. Tales afirmaciones que tendrían como punto de partida la negación absoluta de estas últimas, son aplicables a todos los ciudadanos señalados.

En primer lugar niega categóricamente el contenido de las alegaciones en relación con las características personales, supuestas profesiones y hechos delictivos por los cuales fueron procesadas judicialmente las nueve personas mencionadas, a quienes no duda en calificar de mercenarios al servicio del Gobierno estadounidense. Se ratifica de manera enfática en la defensa de los derechos humanos en general, y más específicamente en el derecho a expresarse libremente y en promover una libertad de prensa que garantiza al mismo tiempo el acceso a la información por parte de la ciudadanía. No duda en afirmar que los ciudadanos mencionados actuaron en servicio del Gobierno de los Estados Unidos, recibieron dinero del mismo y lo hicieron en contra del orden constitucional y los derechos humanos del pueblo cubano a la vida, al desarrollo y a la libre determinación. En este sentido reitera la falsedad de que la causa que motivara el arresto fuera la publicación de artículos críticos sobre asuntos económicos, sociales y de derechos humanos en Cuba. Muy al contrario, el Gobierno se muestra favorable al ejercicio de la crítica. En lo que respecta a las sanciones, declara que han sido los tribunales competentes y no el propio Gobierno quienes las han impuesto, respetando en todo caso las garantías procesales previstas por la legalidad cubana. En lo que concierne a los establecimientos penitenciarios el Gobierno hace hincapié en que se respeta el principio de no discriminación en el trato a los reclusos y que por lo tanto, a pesar de ser catalogados como mercenarios, lo cual supone una agravante del delito, nunca han sido objeto de peor trato. Respecto a la atención médica, el Gobierno señala que los reclusos tienen garantizada la consulta médica y la intervención especializada, incluyendo la quirúrgica en el propio establecimiento penitenciario o en un hospital general si fuere necesario. Las condiciones mínimas en cuanto higiene se cumplen y en lo que respecta a la alimentación, son garantizadas en la medida que el bloqueo lo permite de acuerdo a los niveles mínimos establecidos por la Organización de las Naciones Unidas para la Agricultura y la Alimentación (FAO). El Gobierno destaca también la transparencia del proceso judicial así como de los establecimientos penitenciarios, lo cual pudo y puede ser corroborado por los familiares de los afectados gracias a que su presencia ha sido permitida a través de las visitas a las prisiones y la celebración pública de las comparecencias ante los jueces. Por último señala que el propio sistema legal cubano prevé la existencia de órganos de investigación incluso en los establecimientos penitenciarios. El Gobierno subraya que ninguna de las denuncias, cuyo contenido ha sido debidamente investigado, fue presentada ante ninguna instancia nacional debido a que están fundamentadas sobre hechos estrictamente falsos.

Democratic People's Republic of Korea

508. By letter dated 5 July 2004, sent jointly with the Special Rapporteur on the right to health, the Special Rapporteur notified the Government that he had received allegations concerning:

509. **Kwan-li-so**, or political prisoner labour camps, which consist of sprawling encampments located in the valleys in the northern provinces. There are said to be between 5,000 and 50,000 prisoners per kwan-li-so, totalling perhaps 150,000 to 200,000 persons in the six kwan-li-so in operation: No. 14 Kaechon in South Pyong-an; No. 15 Yodok in South Hamgyong; No. 16 Hwasong in North Hamgyong; No. 18 Bukchang in South Pyong-an; No. 22 in Haengyong, North Hamgyong; and No. 25 Chongjin in North Hamgyong. Except for No. 18, the labour camps are administered by Kuk-ga-bo-wi-bu, the National Security Agency. Detention is arbitrary, as the prisoners have not been arrested, charged, or tried in a court, but picked up and taken to an interrogation facility and tortured to "confess" before

being sent to the camp. Family members are also picked up and deposited there. The camps are usually surrounded at their outer perimeters by barbed-wire fences with guard towers and patrolled by armed guards. The encampments include self-contained, closed compounds for single persons - usually the alleged offenders - and others for their families. Some of the camps are divided into sections called wan-jeon-tong-je-kyuk ("total-control" zones), where the prisoners are kept for life. Only camps No. 15 and No. 18 have hyuk-myunghwa-kyuk ("revolutionizing" zones), so-called "re-education" areas from which prisoners eventually can be released; the others do not feature "re-education," as it is not anticipated that the prisoners will be returned to society. In the total-control zones, only privileged prisoners are allowed to marry and have children. With the exception of camp No. 18, prisoners have no correspondence or contact with the world outside the camp except for news provided by newly arriving prisoners. Camp life is characterized by below-subsistence food rations and hard labour. Prisoners are provided only enough food to be perpetually on the verge of starvation. Prisoners are compelled by their hunger to eat anything remotely edible. Many of the camps involve mining for coal, iron deposits, gold, or various other ores, or logging in the adjacent mountains. Prisoners undertake farm labour during planting and harvesting seasons. They work 12 or more hours per day, seven days per week, with time off only for national holidays. Punishments for rule infractions or working too slowly include further reduction in food rations, or detention in punishment cells that do not have enough space for a person to either lie down or stand up, causing the loss of circulation and atrophy of leg muscles and often leading to death within several weeks. The combination of below-subsistence-level food rations and brutal working conditions lead to large numbers of deaths in detention. Persons who try to escape and other major rule-breakers are publicly executed by hanging or firing squad in front of the assembled prisoners of that section of the camp.

510. **In kyo-hwa-so**, or "re-education through labour" camps, where the prisoners have been tried and given sentences of set lengths. These camps are run by the In-min-bo-an-seong (People's Safety Agency). The facilities consist of a single large compound surrounded by high walls and barbed- or electrified-wire fencing and contain several buildings for manufacturing, prisoner housing, and offices for guards and prison officials. Some camps are large, barbed-wire enclosed encampments in the valleys and composed of villages where prisoners engage in mining or logging activities. The "educational" component at these facilities consists mostly of forced memorization of the speeches of the leadership and organized "self-criticism" sessions. These sessions are often conducted in the evenings, and exhausted prisoners are not allowed to return to their cells until they can recite the speeches. The prisons are harsh "strict-regime" places (virtually no prisoner privileges) where prisoners are forced to perform hard, heavy and often dangerous labour with insufficient food rations. The combination of hard labour and below-subsistence-level food results in rapid weight loss, work accidents, malnutrition-related diseases and death. The prison clinics are too poorly equipped in terms of staff, equipment and medicines to deal with even basic complaints, and therefore the number of deaths is high.

511. **Citizens of the Democratic People's Republic of Korea forcibly repatriated from China**. Upon repatriation, citizens of the Democratic People's Republic are detained in a jail or a detention or interrogation facility and face interrogation, which follows a similar pattern. The authorities ask: "Why did you go to China? Where did you go? What did you do in each place? Did you meet any South Koreans? Did you go to a Christian church? Did you watch or listen to South Korean TV or radio? Were you trying to go to South Korea?" An

affirmative answer would result in execution or being sent to a kwan-liso or kyo-hwa-so. Usually after several weeks of interrogation, the detainees are sent to short-term detention facilities (i.e. for sentences up to six months), such as do-jip-kyul-so (provincial detention centres) and ro-dong-dan-ryeon-dae (labour-training centres) The facilities are characterized by below-subsistence-level food rations, forced labour, such as construction work or brick-making, and high levels of death in detention. They are administered by the In-min-bo-an-seong (People's Safety Agency) and the Kuk-ga-bo-wi-bu (National Security Agency police). Women who are pregnant at the time of repatriation are compelled to have abortions, or their babies are killed immediately after birth, particularly in Sinuiju, Onsong, and Chongjin, to prevent them from having "half-Chinese" babies.

512. By letter dated 15 July 2004, the Government informed that the Democratic People's Republic of Korea suffers from the most severe form of infringement upon its sovereign rights, that is, the artificial division of nation and territory, and is subject to constant threats and sanctions from outside hostile forces. These forces are taking up the "nuclear issue" to destruct the nation's socialist system, and leave no stones unturned for impairing the image of the country by employing "human rights issues". The "allegations" are fabricated and distributed by those attempting to blame the nation's socialist system and also by those who have fled to other countries after having committed crimes in the Democratic People's Republic of Korea. Such phenomena as have been mentioned in the "allegations" do not exist legally or in reality in this people-centred socialist society, and therefore, there is no need of clarifying their substance whatsoever.

Urgent appeals

513. On 20 September 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women, regarding Ms. **Kyoung-Sook Jin**, a 24-year-old. According to the allegations received, 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, China. She was carried away in a large sack from the Chinese side of the Tumen River to the Democratic People's Republic of Korea side to an unknown location. Her husband manage to escape and has attempted to locate her without success.

514. 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 border area between the Democratic People's Republic of Korea and China before, during and after 8 August 2004. The Government draws attention to the suspicion over the validity of the incident when viewed even in terms of the basic common sense, without taking care of its "credibility". There exists an inviolable border between the Democratic People's Republic of Korea and China, and the Government of China is independently exercising jurisdiction over its territory. In ignorance of this stark reality, if supposedly the "security agents" of the Democratic People's Republic of Korea had entered into China across the border for "abduction" purposes, put a "woman" into a big "sack" in that foreign territory in broad daylight and carried it through back home, would it in any make sense to anybody living in this civilized world? Furthermore, one may have to look into what, on earth, would be the use of undertaking such colossal and terrible affairs by resorting to security forces against an individual with whom the Government has no connection at all. Although the Government has

nothing to do with the incident itself, it is compelled to state its position on the matter since the incident was referred to as it's "doing". The incident constitutes a clear fabrication masterminded behind the screen by those hostile to the Democratic People's Republic of Korea. The hostile forces have long been engaged in fabricating a great a number of plots aimed at defaming the Democratic People's Republic of Korea. A typical example is the so-called "incident of chemical weapons experiments on people". The "incident" was forged by hostile forces by coercing a citizen of the Democratic People's Republic of Korea into copying their fabricated materials and of presenting the case of his relative who died of a normal disease, as an example of the "experiment". However, when the afore-mentioned citizen came forward to disclose the inside story of the fabricated "incident" in a press conference, the hostile forces were unable to refute him. In the light of the hostile forces' habit of fabricating whatever incident they wish to, the incident such as the one mentioned above, is quite easy for them to falsify. The key to finding out the genuine identity of "Kyung-Sook Jin" may be in their hands. The fabricators and true culprits of the "abduction incident" in the border area between the Democratic People's Republic of Korea and China are none other than the hostile forces and not the Democratic People's Republic of Korea. It is well known that the agents of the intelligence plot organs, as well as certain human rights bodies, which are crazy with money, maintain their continued presence in that area with camouflage identities and signboards. There, they seduce and abduct the innocent citizens of the Democratic People's Republic of Korea and finally take them to South Korea branding them as "refugees". The Democratic People's Republic of Korea has been a victim of the constant fabrication by hostile forces of plot incidents for more than half a century. The Government has been taking a high degree of precautions against such incidents attempting to mislead the international community in the name of the United Nations. All issues now arising out of the Korean peninsula, irrespective of whether they are nuclear or human rights, big or small, remain politically sensitive in nature without exception. Under such circumstances, any prejudiced approach absolutely favouring the view of one side while completely ignoring that of the other side will inevitably lead to unpredictable devastating consequences.

Observations

515. The Special Rapporteur considers it appropriate to draw attention to the concerns of the Committee on the Rights of the Child (CRC/C/15/Add.239, para. 34) about reports on the persistence of some forms of institutional violence against persons under 18, especially in detention and social institutions.

Democratic Republic of the Congo

516. Par lettre en date du 6 avril 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, a informé le Gouvernement qu'il avait reçu des renseignements au sujet de :

517. **Norbert Kisanga**, journaliste, aurait été battu durant les six jours qu'aurait duré sa détention aux mains de membres de la Direction générale de sécurité (DSR) du Rassemblement congolais pour la démocratie – Goma (RCD – Goma) en octobre 2001. Son

journal, « Les Coulisses », aurait dénoncé l'implication d'officiers du RDC – Goma dans l'importation de contrefaçons.

518. **Claude Olenga Sumaili**, pasteur de l'Eglise catholique romaine et membre de la Commission de Justice et Paix, aurait été battu le 9 août 2001 durant plusieurs heures par des membres de la DSR. Il semblerait que ces événements aient fait suite à une émission radiophonique dans laquelle il aurait soutenu la démilitarisation de Kisangani.

519. Par lettre en date du 6 avril 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, a informé le Gouvernement qu'il avait reçu des renseignements au sujet de :

520. **Koyese Swabo**, détenu en relation avec l'assassinat du président Laurent-Désiré Kabila, serait décédé le 9 septembre 2001 en raison d'une septicémie causée par une infection pulmonaire qu'il aurait contractée suite à de nombreux coups reçus à la poitrine lors de sa détention aux mains de la Détection militaire des activités anti-patrie (DEMIAP).

521. **Kabeya Kitenge Shaba** serait décédé le 10 juin 2002 des suites d'actes de torture supposément infligés par des membres de la Garde spéciale de sécurité présidentielle (GSSP) et des Forces d'autodéfense populaires (FAP) durant la nuit du 8 au 9 juin 2002. Ces derniers auraient agi chez cette personne sous les ordres d'un membre de la famille du président Joseph Kabila, dont le nom est connu des Rapporteurs spéciaux.

522. **Weteshe Mahindule**, 60 ans, aurait été arrêté le 24 février 2002 et accusé de collaboration avec les Mayi-Mayi du territoire de Masisi dans la province du Nord-Kivu. Il aurait été détenu à Ndosho, près de Goma, dans un conteneur utilisé comme cellule de détention par le RCD-Goma et la Rwandese Patriotic Army (RPA). Dans ce conteneur, l'air, l'alimentation et l'eau seraient insuffisants, les températures seraient extrêmes et les conditions sanitaires déplorables. Il serait décédé le 17 avril 2002 en raison des conditions de détention et des coups reçus.

523. Par lettre en date du 1er juillet 2004, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements concernant **Guy Verhaegen**. Il aurait été agressé par des membres du Rassemblement congolais pour la démocratie – Goma (RCD – Goma) en mai 2002 à Kisangani après avoir demandé la libération de son collègue **Xavier Zabalo**, un prêtre catholique missionnaire, qui aurait été arrêté et interrogé au sujet de ses liens avec un groupe local de promotion et de protection des droits de l'homme. Guy Verhaegen aurait nécessité des soins médicaux suite à cette agression.

524. Le Rapporteur spécial a également reçu des renseignements sur les conditions de détention dans la ville de Kamituga. Des informations lui sont notamment parvenues selon lesquelles le **cachot de Mero**, constitué de trois cellules d'une moyenne de 12 m^2, dont l'une pour les hommes, l'autre pour les femmes et les enfants et la dernière des trois pour les détenus considérés comme les plus dangereux, présenterait des infrastructures pauvres et pourrait facilement s'écrouler. La cellule des hommes n'aurait pour mobilier qu'une table de bois d'une longueur d'un mètre et demi sur laquelle les détenus s'entasseraient la nuit tombée, pour ne pas devoir dormir à même le sol, étant donné l'absence de couchette. Aucune

couverture ne serait fournie aux détenus malgré les froides températures nocturnes. La cellule des femmes n'aurait pas de fenêtre et les détenues vivraient en permanence dans la pénombre. Malgré les dimensions réduites de la cellule, les détenues seraient obligées de faire leurs besoins à même le sol dans un coin de la cellule, ce qui contribuerait en grande mesure à l'insalubrité et aux mauvaises odeurs des locaux. Dans cette cellule, seraient emprisonnées des femmes enceintes ainsi que des bébés et des enfants en bas âge. La plupart des femmes détenues à Mero auraient été accusées de sorcellerie, alors que ceci ne constituerait pas un crime en République démocratique du Congo.

525. Le Rapporteur spécial a également été informé que le cachot du **Bureau II bataillon de Kamituga** serait installé dans l'ancien laboratoire chimique de la Société minière et industrielle du Kivu (SOMINKI) et offrirait par conséquence un cadre malsain pour la santé des détenus. Des cas de fièvre non soignés auraient été signalés et au moins un détenu n'aurait pas été autorisé à recevoir la visite de sa famille. Il est aussi allégué que certains détenus du cachot du Bureau II bataillon de Kamituga auraient été passés à tabac. **Justin Ramazani**, 22 ans aurait reçu dix coups de fouet à son arrivée au cachot le 19 décembre 2003. **Riziki Barabara Padjo**, 36 ans, détenu au cachot depuis le 2 décembre 2003, aurait été soumis à une bastonnade qui lui aurait laissé une plaie à la jambe gauche.

526. Par lettre en date du 8 juillet 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires et la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels **Baudouin Mudahogora**, agriculteur, **Paul Mbonabihama, Ndibwami Nyanga, Ayinkamiye Baraza** (f), **Gilbert Mpezamihigo** et **Xavier Nzabanita** 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 district de Rutshuru, province du Nord-Kivu. Paul Mbonabihama et Ndibwami Nyanga seraient décédés des suites des traitements reçus. Baudouin Mudahogora 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. Ayinkamiye Baraza 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. Gilbert Mpezamihigo aurait également eu un fer chaud appliqué sur le dos, et une lourde pierre accrochée à ses testicules. Xavier Nzabanita 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). Cependant, il est allégué que le véritable motif de ces arrestations pourrait avoir un lien avec une affaire de vol de bétail portée devant la justice par Baudouin Mudahogora, qui aurait accusé un fonctionnaire de Bunagana d'être l'auteur du délit. 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 qui auraient survécu à leur détention souffriraient depuis lors de graves problèmes de santé.

527. Par lettre en date du 20 juillet 2004, envoyée conjointement avec la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses

conséquences, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des informations sur les cas individuels suivants :

528. **B. E.**, une fillette de 13 ans résidant à Mboko, région de Fizi (province du Sud-Kivu), aurait été violée le 13 avril 2004 par un militaire du 92e bataillon de la circonscription de Mboko. La fillette aurait été interpellée, alors qu'elle revenait de l'école aux environs de 14 heures, par un militaire dont les Rapporteurs spéciaux connaissent le nom. Le militaire aurait demandé à la fillette de puiser de l'eau et de ramasser des feuilles de manioc pour lui 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 par lequel 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 prise contre le militaire 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.

529. **P. F.,** une jeune fille de 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 pris aucune action jusqu'au 17 mars, date à laquelle l'un des présumés responsables aurait été arrêté sur ordre du commandant de la 69e 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 fille aurait fui. Au moment où ces informations ont été reçues, la jeune fille était rentrée dans son village. L'un des soldats était toujours en état d'arrestation et le dossier, en instruction à l'auditorat militaire, avait été transmis au parquet civil.

530. Peu de cas de violence sexuelle seraient effectivement portés devant le tribunal du territoire compétent en la matière et, lorsque 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.

531. 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 à la victime et à sa famille.

532. Dans la ville d'Ubundu, les victimes de violence sexuelle se trouveraient dans des situations d'une extrême précarité en raison de l'opprobre dont elles feraient l'objet au sein de la société, et 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.

533. Par lettre en date du 21 juillet 2004, le Rapporteur spécial, conjointement avec la Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, a informé le Gouvernement qu'il avait reçu des renseignements sur des cas individuels de violations des

droits de l'homme qui auraient été commis le 27 mai 2004 à Bukavu par des soldats de la 10e région militaire :

534. **Tony Nsengumuremyi** aurait été abattu tôt le matin par des soldats qui l'auraient interrogé, ainsi que seize membres d'équipage d'un bateau qui était arrivé à Bukavu la veille dans l'après-midi en provenance de Goma. Les personnes d'origine banyamulenge ou tutsie auraient été séparées du reste de l'équipage et battues lors d'interrogatoires à propos d'armes. Quatre personnes auraient été conduites au centre de détention de la « Place du 24 ».

535. **Mahoro Ngoma**, **Mande Manege** et **Rushimisha Mahirwe Manege**, étudiants banyamulenge, ainsi que trois autres étudiants dont les noms n'ont pas communiqués, auraient été conduits par des soldats aux environs de 10 heures à un grand carrefour de Bukavu. Sur place, les soldats les auraient déshabillés, attachés les uns aux autres et battus avant de les conduire à un champ proche du carrefour où ils les auraient battus à mort. Les corps des étudiants auraient ensuite été jetés dans une fosse peu profonde.

536. Par lettre en date du 21 juillet 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires et la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, a informé le Gouvernement qu'il avait reçu des renseignements suivants :

537. Le 27 mai 2004, à Bukavu, des soldats appartenant à la 10e 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. **Ngoy Ngoy Mulawa**, 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, Ngoy Ngoy Mulawa aurait été battue et violée par un membre de la police qui l'aurait ensuite laissée sur le bord de la route grièvement blessée, la vessie 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 en dépit de son état de santé critique dû à 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, Ngoy Ngoy Mulawa 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 Ngoy Ngoy Mulawa, 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.

538. Par lettre en date du 1er septembre 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris

ses causes et ses conséquences, a informé le Gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants :

539. **N. B.**, une jeune fille de 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 Rapporteur 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 de 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 dû recevoir des soins d'une organisation non gouvernementale locale qui l'aurait également aidée à engager des poursuites contre le militaire.

540. **Kavira Muraulu**, une agricultrice d'une cinquantaine d'années, résidant à proximité d'un camp militaire à Mangangu, près de la ville de Beni dans la province du Nord-Kivu, aurait été violée à son domicile par un soldat vivant dans ce camp et qui se serait introduit chez elle le 16 mai 2003, tard dans la soirée. Le lendemain, Kavira Muraulu 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. Kavira 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 Kavira Muraulu 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, Kavira Muraulu 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.

541. 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 plus 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 inexistants dans le pays.

542. Par lettre en date du 11 octobre 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses

causes et ses conséquences, a informé le Gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants :

543. Au moins **119 femmes**, parmi lesquelles des femmes enceintes, des mineures et des fillettes – dont une fillette 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'Equateur.

544. Les auteurs de ces viols seraient des soldats du 9e bataillon de la base de Songo. Ce bataillon appartenant aux Forces armées de la République démocratique du Congo (FARDC) serait composé de cinq 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, d'attaquer leurs habitants et de 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.

545. 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, **Boliko Yambo** aurait été tué pour avoir tenté de protéger sa femme. Les soldats auraient également délibérément piétiné **un nourrisson de trois mois**.

546. Depuis leur arrivée dans la région en 1999, les soldats du 9e 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 de harcèlement sexuel de la part de certains soldats par le passé. 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.

547. Nombre de victimes dépouillées de leurs vêtements auraient été contraintes de vivre dans la forêt tandis que d'autres, encore couvertes de vêtements déchirés, auraient pu continuer à vivre dans les villages. La plupart des femmes, qui souffrent 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 en République démocratique du Congo (MONUC).

548. Plus de 100 plaintes pour viol et 86 plaintes pour pillage auraient été déposées auprès de six 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. 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.

549. Par lettre en date du 9 novembre 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a informé le Gouvernement qu'il avait reçu des renseignements au sujet de :

550. **Constantin Lubala Tshimpuya**, alias **Mugulu Pande**, membre du Groupe spécial de sécurité présidentielle (GSSP) et ancien commandant du cachot du GSSP. Suite à la tenue de propos relatifs à un changement imminent au sein du cabinet du chef de l'Etat, le lieutenant Constantin Lubala Tshimpuya aurait été enlevé dans la journée du 11 septembre 2004 dans un bar situé aux abords du Ministère des travaux publics et infrastructures à Kinshasa/Gombe. L'enlèvement aurait été perpétré par un groupe de militaires du GSSP qui aurait conduit le lieutenant Lubala Tshimpuya à un cachot du GSSP dénommé « cave » et situé au sein du camp militaire Tshatshi. Le 12 septembre 2004, il aurait été frappé à la tête à l'aide de barres de fer et de crosses de fusil, ce qui aurait causé une importante hémorragie et une perte de connaissance. Le 14 septembre 2004, sa dépouille aurait été conduite par un groupe de militaires du GSSP à la morgue de l'hôpital général de Kinshasa avant d'être transférée au camp militaire Tshatshi pour inhumation. Des militaires du GSSP auraient par ailleurs menacé la famille du défunt alors que celle-ci souhaitait l'emmener à Bukavu. Son corps aurait finalement été enterré à Kinshasa à l'insu de sa famille. Des enquêtes préliminaires au niveau de l'auditorat militaire et de l'état-major des renseignements militaires (ex-DEMIAP) ainsi que des rapports adressés au chef de l'Etat seraient, à ce jour, restés sans suite.

551. **Mbuyi Tshibwabwa**, communément appelé **Mbote ya Kabambi**, journaliste de la presse militaire et présentateur de l'émission « Armée et peuple » diffusée tous les jours à 19 heures sur la station locale de la chaîne publique Radiotélévision nationale congolaise (RTNC) à Goma. Le journaliste aurait été arrêté le 16 août 2004 pour avoir refusé d'obéir aux ordres de sa hiérarchie qui lui aurait demandé d'accompagner le commandant de la 8e région militaire dans une tournée de « sensibilisation » à l'intérieur de la province du Nord-Kivu. Enfermé au cachot de l'auditorat militaire de Goma, il aurait été battu sur ordre présumé du commandant de la 8e région militaire avant d'être libéré le 18 août. Un mois avant son arrestation, le journaliste avait consacré une de ses émissions à téléphone ouvert à la problématique de l'insécurité dans la ville de Goma. Les populations qui intervenaient en direct par téléphone auraient alors accusé le commandant de la 8e région militaire d'être à l'origine du climat d'insécurité. Le 22 août 2004, en raison des actes de torture qu'il aurait subis, il aurait été conduit d'urgence à l'hôpital militaire du camp Katindo-Droite où il se trouvait au moment où ces informations ont été reçues.

Appels urgents

552. Le 17 février 2004, le Rapporteur spécial a envoyé un appel urgent, concernant la situation du colonel **Biampandou Anicet Wilfried** (connu également sous le nom de Willy Manstsanga), conseiller spécial en matière de sécurité auprès du Ministère de l'intérieur de la République du Congo. Il aurait été arrêté dans la province du Bas-Congo, en République démocratique du Congo en avril 2002, alors qu'il était accompagné de ses gardes du corps, **Matoufa Edgar Anicet, Mananga Guy Dalyas Rosèda** et **Loumbou Kévin Amar**. Depuis lors, lui et ses gardes du corps se trouveraient en détention sous haute protection et sans droit

de visite dans les locaux de la Détection militaire des activités anti-patrie (DEMIAP), à Kinshasa. Les autorités de la République du Congo auraient demandé son retour au pays. Le colonel Biampandou Anicet Wilfried aurait accepté son retour en République du Congo à condition que des mesures soient prises pour garantir sa sécurité. En effet, des craintes ont été exprimées quant au fait qu'il courrait le risque d'y être soumis à des actes de torture ou autres formes de mauvais traitement.

553. Le 27 février 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, concernant l'arrestation de responsables du parti politique Démocratie chrétienne (D.C.) à Lodja. Une délégation de D.C., constituée de MM. **Ekanga Voki**, **Diongokene Omekenge** et **Lokunga Adima**, qui se serait rendue à Lodja (territoire de Sankuru) dans le but d'implanter le parti sur ce territoire, avait été récemment arrêtée à l'aérodrome de Lodja par des membres du Rassemblement congolais pour la démocratie (RCD) sur ordre du gouverneur du Kasaï-Oriental. Il semblerait que des militants de la D.C., qui auraient effectué le déplacement à l'aéroport pour recevoir la délégation, auraient également été appréhendés. Toutes ces personnes se trouvaient en détention et auraient subi et subiraient des traitements inhumains ou dégradants. Deux défenseurs des droits de l'homme qui seraient intervenus en faveur des victimes auraient aussi été arrêtés et placés en détention. Les autorités territoriales de Lodja auraient reproché à ces personnes d'avoir violé le territoire du RCD.

554. Le 22 avril 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur le droit à la liberté d'opinion et d'expression, la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, concernant la situation de **Dieudonné Been Masudi Kingombe**, directeur du Centre des droits de l'homme et du droit humanitaire (CDH), une association de défense des droits de l'homme basée à Lubumbashi, **Grégoire Mulamba Tschisabamka**, secrétaire général de la CDH, et **Me Freddy Kitoko**, vice-président de l'Association africaine de défense des droits de l'homme/Katanga (ASADHO/Katanga). Selon les informations reçues, Dieudonné Been Masudi Kingombe aurait été arrêté le samedi 10 avril 2004 à 18 heures, à Lubumbashi, par des officiers de l'Agence nationale de renseignements (ANR). Il aurait été transféré à la Direction provinciale de l'ANR où il aurait été frappé violemment au corps et à la tête, et où un agent de l'ANR aurait tenté de lui arracher une oreille par morsure. M. Been Masudi Kingombe aurait été libéré deux heures plus tard dans un état de santé très précaire. Le motif de son arrestation ne lui aurait pas été communiqué. Grégoire Mulamba Tschisabamka et Me Freddy Kitoko auraient, quant à eux, été arrêtés le 15 avril 2004 par des agents de l'ANR, sur ordre présumé du directeur provincial de l'ANR, dont le nom est connu des Rapporteurs spéciaux et de la Représentante spéciale. Aucune information n'aurait été dévoilée sur le lieu de détention de ces personnes ni sur les éventuelles accusations portées contre elles. Il semblerait de plus que l'ANR détiendrait une liste sur laquelle figureraient les noms de 10 personnes à arrêter, toutes membres d'associations de défense des droits de l'homme. Certains de ces noms sont connus des Rapporteurs spéciaux et de la Représentante spéciale. Ces arrestations seraient intervenues après la parution, le 6 avril 2004, d'un communiqué de presse du CDH dénonçant la situation d'insécurité des ressortissants de la province de l'Equateur

vivant au Katanga. Le 8 avril 2004, l'Observatoire national des droits de l'homme aurait contacté par téléphone les membres du CDH et les aurait informés du « mécontentement » du gouverneur du Katanga, à la suite de la publication de ce communiqué. Depuis le 10 avril 2004, le secrétaire général du CDH, M. Grégoire Mulamba Tshisakamba, aurait reçu plusieurs fois par jour des appels anonymes le menaçant de mort.

555. Le 14 mai 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire et le Rapporteur spécial sur le droit à la santé, concernant la situation de **L. S. (**17 ans), **S. B.** (15 ans), **P. H.** (17 ans), **S. Z.** (17 ans), **I. Z.** (16 ans), **K. N.** (16 ans), **I. H.** (15 ans), **T. R.** (17 ans), **F. B.** (17 ans), **M. B.** (16 ans), **B. S.** (17 ans), **P. M.** (16 ans), **E. B.** (17 ans), **R. K.**, et **six autres enfants soldats** agés entre 15 et 17 ans. Ils auraient été recrutés par la force ou à un très jeune âge et auraient combattu avec le Rassemblement congolais pour la démocratie – Goma (RCD – Goma). Beaucoup d'entre eux auraient passé de longues périodes allant jusqu'à un an en détention en attente de leur procès. Certains d'entre eux se trouveraient actuellement détenus dans la prison centrale de Munzenze, à Goma. Les autres seraient enfermés dans deux centres de détention militaires, les cellules du procureur militaire de Goma et les cellules militaires T 2. Tous se trouveraient dans des conditions de surpeuplement, insalubrité et sous-alimentation. Bien que certains de ces enfants auraient des problèmes de santé, ils ne recevraient pas de soins médicaux. L. S. serait gravement malade de dysenterie et souffrirait de plusieurs infections. M. B. aurait des lésions aux côtes dues à des coups reçus lors de son arrestation. D'autres garçons mentionnés ci-dessus seraient également gravement malades et souffriraient pour la plupart de blessures résultant des combats auxquels ils auraient pris part. Il est également allégué que les enfants auraient été battus lors de leur arrestation. Bien qu'étant mineurs, F. B., M. B. et S. B. seraient détenus pour des crimes militaires, nonobstant le fait que, selon la loi martiale de la République démocratique du Congo, les mineurs ne peuvent être sujets à la justice militaire. F. B. aurait été arrêté en septembre 2003 pour avoir abandonné son poste militaire; M. B. en février 2004 pour avoir déserté; et S. B. en janvier 2004 pour avoir gaspillé des munitions. Les autres enfants auraient été arrêtés pour des délits de droit commun tels que vol, vol à main armée, viol ou assassinat. Certains auraient été arrêtés pour des crimes qui seraient à la fois civils et militaires. R. K. et I. Z. seraient les deux enfants qui auraient été jugés et condamnés jusqu'à présent. R. K., arrêté en janvier 2004, aurait été arrêté, condamné à cinq ans de prison pour vol à main armée. Il souffrirait de lésions aux côtes dues au traitement reçu après son arrestation. I. Z., arrêté en juin 2003, aurait été condamné à mort pour meurtre. Il présenterait des vieilles blessures causées par balle qui seraient particulièrement douloureuses. Des renseignements quant aux procédures d'appel disponibles et la date de son exécution n'ont pas été portés à la connaissance des Rapporteurs spéciaux.

556. Le 23 juin 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, et la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, concernant la situation de **Modeste Shabani**, directeur de la radio communautaire et associative Sauti ya Mkaaji (La Voix des paysans), émettant à Kasongo, dans la province du Maniema. Le 20 juin 2004, dans la matinée, des hommes armés, conduits par un colonel de la garnison de Kasongo, auraient fait irruption dans les locaux de la station de radio, menacé le personnel présent et battu Modeste Shabani auquel ils auraient reproché de s'intéresser de trop près aux violations des droits de l'homme commises dans cette région. Au moment où

l'appel urgent a été envoyé, le journaliste faisait toujours l'objet de soins intensifs à l'hôpital général de Kasongo.

557. Le 16 juillet 2004, le Rapporteur spécial a envoyé un appel urgent, concernant la situation des **80 personnes détenues dans le cachot de Lufwalanga**, à Mbujimayi (Kasaï-Oriental).

558. Ce cachot serait placé sous l'autorité de la 5e région militaire mais utilisé par le service de renseignements de la région et l'auditorat militaire pour la détention tant de militaires, dont certains auraient été condamnés à la peine de mort, que de civils. Au moment où l'information a été reçue, 80 détenus, dont des enfants, étaient enfermés dans ce cachot mesurant 24 m^2, sans fenêtre ni ventilation et sans sanitaires adéquats. Un coin du cachot servirait de toilettes pour les 80 personnes et ne serait jamais nettoyé. En raison de ces conditions sanitaires déplorables, l'état de santé des détenus serait extrêmement précaire. Il a été rapporté que deux détenus décèderaient chaque mois. Deux pièces jouxtant le cachot seraient en outre utilisées comme dépôt d'armes, de munitions et d'explosifs, ce qui mettrait gravement en péril la vie des détenus. Les prisonniers n'auraient en outre jamais accès à leur famille.

559. Le 26 juillet 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, concernant : **S. A.**, un enfant soldat âgé de 12 ans; originaire du territoire de Rutshuru; **S. B.,** un enfant soldat âgé de 15 ans, originaire du territoire de Kiroliro; **S. K.,** un enfant soldat âgé de 15 ans, originaire du territoire de Masisi; **I. S.**, un enfant soldat âgé de 16 ans, originaire du territoire de Masisi; **E. U.**, un enfant soldat âgé de 17 ans, originaire du territoire de Masisi; **S. K.**, un enfant soldat mayi-mayi âgé de 16 ans, originaire du territoire de Bunyakiri; **S. B.**, un enfant soldat âgé de 17 ans, originaire du territoire de Masisi; et **Z. I.**, un policier de 17 ans, originaire du territoire de Mabenga-Nord.

560. Ces mineurs auraient été transférés deux semaines et demie auparavant de la prison centrale de Munzenze, à Goma, au cachot de l'auditorat militaire de Goma, où ils seraient actuellement détenus. Le Bureau du Haut-Commissariat des Nations Unies aux droits de l'homme aurait effectué un plaidoyer pour leur mise en liberté, mais celui-ci ne semblerait pas avoir abouti. Le cachot de l'auditorat militaire de Goma serait constitué d'une petite cellule d'environ 9 m^2 dans laquelle une quarantaine de personnes, mineurs et adultes confondus, y seraient détenues. La cellule ne serait pas illuminée et n'aurait pas de fenêtre. L'air et la lumière ne rentreraient que par des barreaux de la porte de la cellule. Les mineurs mentionnés ci-dessus, à l'exception de Z. I., auraient tous les pieds gonflés car ils resteraient la majeure partie de leur temps debout, faute d'espace pour se coucher ou s'asseoir, même la nuit. Z. I. serait détenu dans une tente à l'extérieur de la cellule pendant la journée et dans un bureau de l'auditorat, avec des adultes, pendant la nuit. Par ailleurs, S. K. aurait de la diarrhée et des maux de tête; I. S. aurait des maux de tête et des démangeaisons; E. U. aurait de la diarrhée; S. K. aurait de la diarrhée et des vertiges; S. B. aurait des maux de tête et de la diarrhée; et Z. I. aurait mal aux côtes suite à une blessure par balle reçue auparavant. Selon l'article 14 du Code pénal militaire congolais, l'auditorat militaire n'aurait la juridiction que sur les personnes âgées de plus de 18 ans puisque celles âgées de moins de 18 ans ne peuvent être enrôlées dans l'armée. D'après le droit congolais, seul le parquet civil pourrait détenir des mineurs âgés de 16 à 18 ans. En ce qui concerne les mineurs de moins de 16 ans, ils ne

pourraient être détenus que pour une période de deux mois et sur l'ordre du juge des mineurs attaché au tribunal de grande instance. Les mineurs détenus au cachot de l'auditorat militaire de Goma ne possédant pas de cartes d'identité, il serait difficile de déterminer avec exactitude leur âge. Cependant il est allégué que l'auditeur supérieur démentirait systématiquement que les personnes qu'il détient soient mineures. Il est en outre allégué que l'auditeur supérieur refuserait d'appliquer les normes du nouveau Code pénal militaire.

Suite donnée aux plaintes signalées dans des communications précédentes

561. Par lettre datée du 23 février 2004, le Gouvernement a transmis des renseignements concernant le commandant **Dieudonné Amendala Kabengele** (E/CN.4/2004/56/Add.1, par. 542). Le Gouvernement a indiqué qu'il détenait un faux passeport qu'il avait utilisé pour entrer en République démocratique du Congo, fait pour lequel il a été déféré pour trahison devant l'auditorat militaire supérieur. L'intéressé est détenu au centre pénitentiaire et de rééducation de Kinshasa.

Djibouti

Appels urgents

562. Le 18 juin 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, concernant **Houssein Ahmed Farah**, journaliste du « Renouveau ». Selon les informations reçues, il aurait été arrêté par la police à Djibouti-Ville le mardi 8 juin 2004 vers midi, lors du passage du cortège de l'épouse du chef de l'Etat. Détenu pendant plus de quatre jours dans les locaux de la police, il aurait été accusé de mise en danger du cortège de la première dame, placé sous mandat de dépôt à la prison centrale de Gabode et mis à l'isolement dans le bloc de cellules connu sous l'appellation de « cellules 13 ». Il ferait actuellement 45 °C dans ces cellules où l'eau ne coulerait plus, où l'aération serait quasi-inexistante et autour desquelles seraient déversées les eaux des toilettes.

Dominican Republic

Seguimiento de comunicaciones transmitidas previamente

563. Por carta de fecha 22 de marzo y 17 de noviembre de 2004, el Gobierno respondió en relación con el caso de Carlos Javier Méndez (E/CN.4/2003/68/Add.1, párr. 428). El Gobierno indicó que en virtud de la Providencia Calificada, dos capitanes fueron enviados al tribunal criminal en calidad de acusados de torturas o actos de barbarie. El expediente correspondiente será remitido al despacho del Magistrado Juez-Presidente Coordinador del Juzgado de Primera Instancia del Distrito Nacional, para fines de seleccionar la Sala Penal o Tribunal que conociera del fondo de las aludidas acusaciones. En la Providencia Calificativa de fecha 25 de febrero de 2004, los magistrados señalaron que le envían al Tribunal Criminal por encontrar indicios suficientes, claros, precisos y concordantes, que comprometen la responsabilidad penal de los acusados.

Ecuador

Llamamientos urgentes

564. El 17 de marzo de 2004, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Representante Especial del Secretario General para los defensores de los derechos humanos sobre la situación de **Patricio Ordóñez Maico**, miembro de la Fundación Amigos por la Vida, una organización no gubernamental que trabaja para los derechos de las personas lesbianas, gays, bisexuales y transexuales. Habría sido detenido en mayo y junio de 2001 por agentes de la Policía Nacional en Quito. Durante su primera detención habría sido sometido a abusos sexuales por un agente. A pesar de que éste le habría amenazado de muerte en caso de que denunciara los hechos, habría presentado una denuncia ante la Policía Nacional. En su carta de fecha 2 de septiembre de 2002, el Relator Especial sobre la cuestión de la tortura notificó al Gobierno que había recibido información sobre estas alegaciones (E/CN.4/2003/68/Add.1, párr. 430). Desde que interpuso su primera denuncia, Patricio Ordóñez Maico habría recibido varias amenazas de muerte. El 12 de marzo de 2004, un intruso se habría introducido en las instalaciones de la Fundación Amigos por la Vida y habría atacado a Patricio Ordóñez Maico, quien habría resultado herido en el pecho y la espalda. Se habría presentado una denuncia ante la Policía Judicial de Guayaquil. Este último incidente habría ocurrido una semana después de que Patricio Ordóñez Maico expustera públicamente su caso durante una conferencia internacional de derechos humanos.

Seguimiento de comunicaciones transmitidas previamente

565. Por carta de fecha 17 de diciembre de 2003, el Gobierno respondió a una comunicación enviada por el Relator Especial juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias el 5 de noviembre de 2003 en relación con las amenazas de muerte en contra de Wilmer Lucio León Murillo (E/CN.4/2004/56/Add.1, párr. 547). El Gobierno indicó que el Ministerio Fiscal de Los Ríos con sede en Quevedo, había iniciado una indagación previa. Tras realizar varias diligencias el Agente Fiscal que conoció la denuncia se inhibió de seguir conociendo el caso y lo remitió al Juez Penal del Cuarto Distrito de Policía Nacional.

El Salvador

566. Por carta de fecha 7 de abril de 2004, el Relator Especial notificó al Gobierno que había recibido información sobre los casos individuales siguientes. Por carta de fecha 9 de julio de 2004, el Gobierno proporcionó información sobre los dos casos.

567. **Francisco Alexander Cerna Manzanares** habría sido interceptado por agentes de la Policía Nacional Civil el 15 de agosto de 2002 en la ciudad de San Salvador. Habría sido obligado a acompañar a los agentes en un terreno abandonado. Los agentes le habrían preguntado si era homosexual y seguidamente le habrían propinado patadas y golpes, incluso con sus porras. Antes de abandonarle, los agentes le habrían amenazado con otra paliza si denunciaba los hechos.

568. El Gobierno informó de que el 22 de agosto de 2002 se abrió expediente en la Fiscalía General de la República, y se ordenó la práctica del reconocimiento médico forense de lesiones, en la que se reconoció que Francisco Alexander Cerna Manzanares presentaba golpes. El Gobierno indicó igualmente que la Fiscalía no presentó solicitud de juicio por falta de individualización de los responsables de los hechos y no contando con suficientes elementos probatorios para ejercer acción penal. Además, la legislación nacional daría un plazo perentorio de un año para hacerlo.

569. **Liseth Rivas Sánchez**, una mujer transexual, habría sido detenida el 19 de octubre de 2002 en la ciudad de San Salvador por cuatro agentes de la Policía Nacional Civil. Habría sido tirada al suelo y los agentes le habrían propinado golpes y patadas. También habría recibido insultos relacionados con su orientación sexual. Habría sido maniatada y conducida a la Comisaría del Parque Centenario, donde habría sido nuevamente insultada y privada de libertad durante 72 horas.

570. El Gobierno indicó que Liseth Rivas Sánchez (Juan Carlos Rivas Sánchez) fue remitido a sede fiscal el 19 de octubre de 2002. En las diligencias que fueron asignadas a la Unidad de Administración de Justicia de la Fiscalía, consta que esta persona se negó a ser trasladada al Cuerpo de Agentes Metropolitano y que seguidamente opuso resistencia física a ser esposada. Se ocasionó un forcejeo a raiz del cual el detenido resultó con algunos golpes leves. Según consta en las diligencias, el detenido intentó autolesionarse. El Gobierno informó igualmente que el tribunal competente falló sentencia por inobservancia de las providencias de la autoridad, en perjuicio del orden y la falta de tranquilidad pública. Sin embargo se le otorgó el perdón judicial, absolviéndolo por responsabilidad civil.

Egypt

571. By letter dated 26 March 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning **Mahmoud Gabr Mohammed**, a worker and resident of El Sazeda Zeinab. On 4 October 2003, he was arrested without charges and later died in detention at El Sazeda Zeinab Police Station. His family was informed of his death on 7 October 2003. Numerous injuries and bruises were found on his body.

572. By letter dated 25 May 2004, the Government informed that he had been suffering from haemorrhaging in the urinary tract. The Department of Public Prosecutions opened an investigation, questioning witnesses who had been in detention at the Saida Zainab police station when the death occurred. Some of them said that they had heard police officers at the station beating Mahmoud Gabr Mohammed but that they had not seen it happen. Others said that they had seen two officers beating him and then carrying him back to his cell. They said that he had been in a very bad state. The brother of the deceased was also questioned. He stated that according to information that he had received from persons detained at the station at the time of his brother's death, Mahmoud Gabr Mohammed had been tortured by members of the Saida Zainab investigations unit. The medical examiner's report of 7 October 2003, the date on which the death occurred, noted that there were several injuries on the body and that the deceased had been dead for less than one day. However the report failed to determine the cause of death based on the physical examination.

573. By letter dated 13 April 2004, sent jointly with Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government responded by letter dated 25 May 2004:

574. **Muhammad 'Abd al-Sattar al-Roubi**, a 26 year-old engineer. On 19 September 2003, he died while in State Security Investigations (SSI) custody in Ebshiway detention centre, Tibhar (al-Fayyum), where the police tortured him in an attempt to extract a confession regarding his political affiliations. SSI officers told Mr. al-Roubi's father that his son had committed suicide. No autopsy report was made public.

575. The Government informed that he was arrested, along with a number of others, for engaging in extremist acts, under his leadership. He hanged himself while being held in custody at the Fayyum State Security Investigations Branch pending referral to the Higher State Security Prosecutions Department. The Fayyum Department of Public Prosecutions opened an investigation to verify the circumstances of the death. One of the persons who had been detained along with the deceased was questioned and confirmed what had happened. The Department furthermore viewed the corpse and found no signs of any injuries suggesting that he had been subjected to violence, and decided to release the body to his family for burial.

576. **Muhammad `Abd al-Qadir**, age 31. On 21 September 2003, he died after he was tortured in SSI custody in Cairo. His body bore evident signs of torture and no forensic report was made public.

577. The Government informed that on 16 September 2003, a preventative detention order was issued authorizing his arrest together with a number of others, for engaging in certain extremist activities, and for maintaining contacts with members of terrorist organizations. On 21 September 2003, Muhammad `Abd al-Qadir was taken ill while in detention at the Qubba Gardens police station in Cairo. He was transferred to a private hospital and given emergency treatment. He was stabilized and sent back to the detention centre. However, he became ill again that same day and was taken to a public hospital. The examining doctor found that Muhammad `Abd al-Qadir had suffered a massive coronary, as a result of which he died shortly afterwards. The incident was recorded in the police station report and the Department of Public Prosecutions authorized the burial.

578. **Mas`ad Muhammad Qutb**, an accountant at the Engineers' Syndicate. On 1 November 2003, he was arrested by the SSI of the State Security in Giza on suspicion of being a member of the illegal organization, "the Muslim Brotherhood". He was tortured to reveal information about the organization, and died on 4 November while he was being transferred from the SSI office in Gabir Ibn Hayan to Umm al-Masryyin Hospital. The Prosecutor General's investigation confirmed signs of inflicted injuries on his body and ordered a forensic examination to determine the cause of the death.

579. The Government informed that he died while being transferred to prison. The Department of Public Prosecutions opened an investigation, questioning the police officer who had written the report and the police sergeant responsible for guarding the building. They both said that Mas`ad Muhammad Qutb had felt very ill and the officer had taken him in a departmental vehicle to Umm al-Misriyin Hospital for emergency treatment, but he had died.

The Department of Public Prosecutions went to view the body which showed signs of injuries. It decided to order the pathologist to perform an autopsy on the body in order to determine the cause of the injuries, what instrument had been used to inflict them and whether they had had a direct and vital impact on the cause of death. The pathologist's report found there to be injuries on the body and concluded that the death, which had occurred approximately one day before the autopsy, was suspicious. Under article 126 of the Penal Code, any public official or employee who orders, or himself carries out the torture of an accused person with a view to extracting a confession from him, faces a penalty of life in prison, imprisonment at hard labour, or a term of three to 10 years in the prison. If the victim dies, the penalty is that prescribed for premeditated murder. The Department of Public Prosecutions charged the police officer and sergeant with torture causing death. They denied the charges against them and presented arguments in their defence. The documents are still being examined with a view to verifying their arguments. The family stated that they would take civil legal action against the State security investigators responsible for torturing the deceased.

580. By letter dated 8 September 2004, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government responded by letter dated 11 November 2004:

581. **Farag Ragab Isma'il**. On 21 January 2003, he was detained at the Police Station 'Ataba Underground Station, Cairo, after an argument with a police officer. He was forced to undress except for his underwear. He was suspended by his arms with his hands tied behind his back, blindfolded and subjected to electric shocks. Following his release on 24 January 2003, his brother, a lawyer, attempted to file a complaint of torture at Giza Police Station, but the officers refused to receive it. The Nadim Centre for the Management and Rehabilitation of Victims of Violence conducted a medical examination of Farag Ragab Isma'il and found injuries consistent with the allegations.

582. The Government informed that there is no evidence that this man was arrested or detained at Mosca Police Station on the above-mentioned date.

583. **Samaan Shawky Amin Samaan**, age 19, Menoufeya. On 15 February 2003, he was arrested and taken to the 10th of Ramadan City Police Station No. 1, Cairo, on suspicion of robbery. He was detained in a room called "the fridge", and beaten by five officers (whose names are known to the Special Rapporteur) to force him to confess. He was beaten with a thick electrical cable all over his body, including his fingers, toes and genitals. He was plunged in cold water as he was struck, and hung and beaten with a stick on his feet. He suffered injuries to both feet and hands. He was not presented to the Prosecution Office until his release on 14 March.

584. The Government informed that the Department of Public Prosecutions decided to summon him for questioning concerning a robbery. There is no evidence that he was detained at the 10th of Ramadan City Police Station No. 1, nor that he was physically harmed in way. No legal action of any kind was taken against him. His mother stated that her son had neither been physically harmed in any way, nor detained at the 10th of Ramadan City police station No. 1.

585. **Amr Sayed Zaki Morsy**, a 22 year-old merchant, Giza. On 19 March 2003, he was arrested and taken to Giza Police Station by a group of police officers. The next day he was presented to the Public Prosecution Office which remanded him for four days while the investigation was carried out. On 23 March, the Public Prosecution Office extended his detention for another 15 days. On 30 March, the arresting officers (whose names are known to the Special Rapporteur) detained him in the women's custody section after first sending the women out. The officers beat him with a stick all over the body, poured boiling water on his neck and chest, and burned him with cigarettes on the left thigh. He sustained burns to the neck and left shoulder, and bruises to the stomach and legs.

586. The Government informed that on 30 March 2004, an altercation took place between him and an officer from Giza Police Station. His mother lodged a number of complaints with the procurator-general, accusing police officers at the station of assaulting and injuring her son. However, he denied that he had ever been assaulted by any officers at the police station.

587. **Mahmoud Hamed Ahmed**, Rod Al Farag. On 13 May 2003, he was summoned by a policeman during an altercation in his neighbourhood. The policeman slapped him on the face and beat him. Other policemen joined in, beat him and took him to a police van. Pursuant to commands from two police officers (whose names are known to the Special Rapporteur), he was stripped, humiliated, beaten and insulted. Afterwards, he was taken to Rod Al Farag Police Station where he was released without being presented to the Prosecutor's Office or finding out the reason for his detention.

588. The Government informed that on 13 May 2004, fighting broke out at Rawd al-Farj Police Station, Cairo, and a force from the station's investigations unit went to the scene. He was arrested and taken to the reception for processing. An investigation established that he had not taken part in the fighting and was released immediately without any legal action being taken against him.The *Arabi* newspaper published an article claiming that he had been injured in an assault carried out by an officer at the station, that he had filed a complaint, and that he was intending to take legal action. Mr. Ahmed came to the station with his sister and a number of lawyers and gave a statement in which he declared that he had not filed any complaints against any officer from the station.

589. **Nagdy Mohamed Gad El Rub**. On 14 May 2003 at 10am, he was accused of theft and taken to the Luxor Traffic Unit. There, when he denied the accusation, an officer (whose name is known to the Special Rapporteur) took him to a room and hung him from his arms tied behind him with the assistance of four policemen. They beat him with canes and poured boiling and cold water on him over a period of four days. The officer called his sister and brother to the office, and one of the policemen was ordered to pull Nagdy Mohamed Gad El Rub's sister's hair and attempted to place his hands on her genitals to force him to confess. His brother and sister were eventually released. When his condition worsened a nurse was called to treat his injuries. On 17 May 2003, he was transported to Luxor Police Station where he was charged with a misdemeanor. He was then transferred to the Luxor Prosecution Office at which time the officer threatened him and his family that if they disclosed the acts of torture he would be tortured again. He was detained in a lock-up for four days at Luxor Police Station pending the investigation. His condition deteriorated and he was transported to the burn unit at the International Luxor Hospital. Burns to the under arm area, groin, scalp and various other areas of the body were documented.

590. The Government informed that he was detained at the Luxor Traffic Unit in relation to a robbery. While he was in prison awaiting trial, he asked for a medical examination on the grounds that he had been tortured at the Luxor Traffic Unit. The Department of Public Prosecutions opened an investigation and questioned the chief of the Unit. Having completed the investigation, the Department of Public Prosecutions decided to drop the case for lack of evidence.

591. **Al Said Yasin Abdel Aziz**, a 50 year-old retired police officer's assistant, Dakahleya Governorate. On the 15 July 2003, he was arrested and taken to the headquarters of Aga police force. There, the Chief Officer and his two assistants (whose names are known to the Special Rapporteur) tied his hands behind his back, threw him face down on the floor, put a shoe in his mouth, beat and whipped him, and hung him from behind. He suffered bruising to the left side of his face behind the ear, left foot, right wrist, and right knee.

592. The Government informed that on 15 July 2003, he was arrested for possessing an unlicensed firearm. There is no evidence that he was beaten and tortured at Aga Police Station, Daqhaliyah.

593. **Said Abdel Kader Abdel Fattah**, a 60 year-old manager in Egyptair, residing at Maadi. On the 23 July 2003, he was arrested and taken to Maadi Police Station. Under the leadership of an officer (whose name is known to the Special Rapporteur), he was beaten and struck with a sharp object, and verbally abused. He sustained abrasions and bruising to the right and left arms, back, and both feet.

594. The Government informed that on 23 July 2003, the judgements' enforcement unit of Ma`adi Police Station, Cairo, arrested him. After he was taken to the reception, he signed a pledge promising to appear the following day before the Department of Public Prosecutions. He was let go without any further action being taken. There is no evidence to substantiate the allegation that he was tortured at the police station.

595. **Arafa Badr Ibrahim Bayoumy**, a 23 year-old marble worker, El Sayeda Aisha. On 1 August 2003, while he was in Khalifa Police Station dealing with probation matters, two policemen questioned him about drug dealers in Sayeda Aisha. When he denied any knowledge he was taken to the Assistant Detective (whose name is known to the Special Rapporteur). The Assistant Detective beat his head with a stick and detained him in the investigation room, where a policeman tied his hands behind his back and hung him on the window. Alcohol and boiling water mixed with salt was poured on his body, causing burns on his chest, neck and back.

596. The Government informed that on 15 February 2004, the investigations unit of Khalifa Police Station arrested him for drug offences. There is no evidence that he was beaten or tortured.

597. **Hamdy Youssef Mohamed Ahmed**, his son **Karam Hamdy Youssef**, and his nephew **Essam Mahmoud**, all of the Pyramids area. On 24 September 2003, members of the Judgment Implementation Unit based at the Haram Police Station arrived at Hamdy Youssef Mohamed Ahmed's home to collect a fine issued against him. His insistence on a receipt

prompted the police officers to destroy the contents of his house, and assault him, his son and his nephew, who they punched and hit with a car jack and gun barrel. They were all taken to the police station, where they were beaten. Essam Mahmoud's right wrist was broken.

598. The Government informed that on 24 September 2003, a group of officers from the judgements' enforcement unit of Giza Police Station went to his home. He refused to pay and got into an altercation with some of the officers. He subsequently lodged a complaint with the Department of Public Prosecutions, claiming that the officers, acting on orders from a senior officer, had insulted and beaten him and his son and had destroyed the doors of his house. A senior officer from the Giza security directorate went to Mr. Ahmed's home to question him about the complaint; he found no signs of violence or material damage to the home. The Department of Public Prosecutions decided to discontinue its investigation of the complaint.

599. **Hossan Al Sayed Mohamed Amer**, a 39 year-old owner of an auto parts shop, Mansoura. On 8 October 2003 at 5am, he went to Azbakeya Police Station, concerning a dispute with a taxi driver. There two 1st Lieutenants (whose names are known to the Special Rapporteur) beat him. When he threatened to go on a hunger strike, he was beaten, kicked, hit with a gun, spit on and had his head beaten against a wall until he lost consciousness. When he awoke he was shackled, spit on, and had tea poured on his face and clothes. The officers threatened to arrest and rape his family. He was taken to the Azbakeya Public Prosecutor's Office, where he was ordered to be released and taken for a medical examination for his wounds. The police officers took him back to the police station again and detained him for four more days. On the evening of 8 October, he was led shackled to a corridor behind the custody toilets. There he was thrown on the floor and kicked all the body, particularly the left kidney. After he lost consciousness, he was woken up with toilet water poured in his nose and mouth. His head was held in a blocked toilet, and as the water dried, cockroaches were thrown on him. This treatment was repeated nightly until his release on 12 October. On the morning of 11 October, he was thrown into a prisoner van full of tires, with his hands and feet tied. The van would be driven fast and stopped suddenly so that the tires would knock into him. On the morning of 12 October he was left hanging from a wall handcuffed to his left wrist until he lost consciousness. When he awoke on the sidewalk next to the Khalifa Police Station, he was taken to the Khalifa Transfers Section, then to the Mansoura Second Ward, and then to the Al Salam Hospital, Mansoura.

600. The Government informed that on suspicion of passing counterfeit money, he was presented to the office responsible for prosecuting financial and commercial crimes, which decided to release the accused that same day, his home being used as a warranty. He was later taken to the Daqhaliyah security directorate to serve a previous sentence. There is no evidence that he was beaten or tortured.

601. **Ragab Said Mohamed Sayed** from Kalyoub. On 8 November 2003, he was arrested and taken Kalyoub Police Station by two detectives from the Kalyoub Investigations Centre. In detention he was forced to take off his clothes and was punched, kicked and whipped by the station detectives. He suffered bruises and abrasions to the back and left shoulder.

602. The Government informed that when he was arrested, he was found in possession of a quantity of drugs, and remanded in custody. There is no evidence that he was beaten or tortured.

603. **Alaa Gabr Abou Zeid**, a 20 year-old marble factory worker, El Basatin. On 13 January 2004, he was arrested and taken to Maadi Police Station, on suspicion of drug possession. In detention he was punched and kicked to force him to confess, and suffered bruising around the eyes and abrasions to his back.

604. The Government informed that he was arrested by the anti-drugs department of the Cairo security directorate after being found in possession of drugs, and remanded in custody. There is no evidence that he was beaten or tortured.

605. **K. A. S.**, a 16 year-old barber, Emam el Shafey. On 13 January 2004, he was arrested and taken to Maadi Police Station. In order to force him to confess to a drug-related charge, he was stripped naked, punched, kicked and hit with a heavy stick, leaving abrasions all over his body.

606. The Government informed that he was arrested by the anti-drugs department of the Cairo security directorate after being found in possession of drugs, and remanded in custody. There is no evidence that he was beaten or tortured.

607. **Yosry Mohamed Abdel Ghafar**, an employee in the Habi Hotel, Aswan. On 16 February 2004, he was arrested at work and detained for two days at Aswan Police Station, on suspicion of robbery. The Chief Detective and Assistant Detective (whose names are known to the Special Rapporteur) beat him with a stick, stripped and whipped him. He was hung from a door by his arms handcuffed behind his back. On 19 February, officers from the Police Office Investigation entered his house, detained him in the police station and again tortured him. The day after his arrest, his brother went to inquire about him at the police station, and found his brother hanging on a door, handcuffed, with injuries that had completely changed his features. On 24 February, he was presented to the Prosecution Office which remanded him in custody for four days. He was later released on bail.

608. The Government informed that he was brought in for questioning in connection with a robbery, and remanded in custody for four days. He has said that he did not file any complaints and that it was his brother who did so, mistakenly believing that he had been tortured. The Department of Public Prosecutions dropped the investigation into the complaint filed by the brother, since there was no case to answer.

609. **Talaat Mohamed Sayed**, a 20 year-old farmer, Assiut. On 3 March 2004, he was detained by policemen from the Haram Police Station, who were searching for the farm's owner. Unable to find him, he was arrested along with other workers. An Assistant Detective (whose name is known to the Special Rapporteur) together with other officers beat him with sticks, tied his hands behind his back and hung him on the door of one of the farm's rooms, pulling down on his feet in order to increase the pressure on his hands. He was stripped naked and dragged along the ground, and subjected to punches and kicks. He sustained injuries on his hands and legs. He was taken to the police station, charged with weapons possession and presented to the Prosecution Office, which decided to remand him for a further four days in

custody pending an investigation. His detention was extended for a further 30 days, and was later released on bail.

610. The Government informed that on 28 December 2003, a fight broke out in the vicinity of the Ahram police station among a number of individuals who were arguing over the ownership of a piece of land. Shots were exchanged and several persons were injured. A force from the station's criminal investigations unit set out to arrest the farm owner, however, he had already left his home by the time the force arrived. Talaat Mohamed Sayed was found in possession of a firearm, and remanded in custody. There is no evidence that he was beaten or tortured.

611. **Khaled Abdel Naby**, an 18 year-old baker, Fayed City, Ismaleya. On 13 March 2004, he was arrested and taken to al Fanara Police Station by the investigations chief of Fayed Police Station and by a detective (whose names are known to the Special Rapporteur). In a cell, he was punched, kicked and beaten with sticks and electrical cables all over his body by five policemen until he lost consciousness. When he awoke he found that his clothes were on fire. The officers forced him to sign papers before they agreed to take him to hospital for treatment. He was transferred handcuffed to the al Fanara Hospital in a police van, but the hospital refused to receive him because of the seriousness of his injuries. He was then taken to Fayed Central Hospital which sent him to Ismaleya University Hospital. He sustained burns to his face, neck and hands.

612. The Government informed that on 13 March 2004, while a force from the criminal investigations unit of the Fayed police station in Ismailiya was on its way to investigate a security incident, it became suspicious of the behaviour of his behaviour when he fled. The force gave chase and he hid in a rubbish tip. In a bid to create a diversion, he set fire to the rubbish, but got burned. He was taken to the University Hospital for emergency treatment and was found to have burns on 40 per cent of his body. He confessed to having started the fire at the rubbish tip and confirmed that his injuries had been caused by the fire. Two witnesses confirmed the story. He was released, using his home as security, after the investigation had been completed. His family lodged a complaint with the Department of Public Prosecutions, alleging that officers from Fanara Police Station had arrested, beaten and set fire to the accused. The Department of Public Prosecutions questioned the station officer and his assistants and they were let go without charge. There is no evidence that he was tortured at the Fanara or the Fayid police stations.

613. **Mohamed** and **Ahmed Tawfik Mohamed**, both students at Helwan University, Ein Shams, Cairo. On 3 April 2004, police entered their home and took them to Ein Shams Police Station. The First Lieutenant (whose name is known to the Special Rapporteur) punched, kicked them and whipped them with a thick leather belt. Mohamed sustained bruising and abrasions, and Ahmed Tawfik Mohammed sustained an injury to his upper jaw.

614. The Government informed that these men were involved in a dispute with a third party, and the officer was verbally abusive towards them. Legal action was taken against the officer, who was disciplined and subjected to an administrative investigation.

615. **Khaled Abdel Moneem Mostafa Ebeid**, age 38, Imbaba. On 6 April 2004, in Imbaba Police Station Office, he was tortured by three policemen (whose names are known to

the Special Rapporteur) to force him to sign a report. They punched and kicked him and hit him with sticks all over his body, causing swelling to his face, bruising around his eyes and back. He was transferred to Tahrir Central General Hospital for treatment.

616. The Government informed that on 28 December 2003, the investigations unit of Imbaba Police Station, Giza, arrested him and he was held in pre-trial detention pending further investigations. While he was in prison, he inflicted several wounds upon himself. These events were recorded in Imbaba police station crime report. The report was passed on to the Department of Public Prosecutions, which decided to release him with his home being used as a warranty.

617. **Mohamed Morsy Saleh**, age 26, the Pyramids area. On 13 April 2004, while he and his cousin were in a market, they became involved in a confrontation with a policeman. The policeman pistol-whipped Mohamed Morsy Saleh on his forehead, fired shots in the air to warn bystanders and shot him in his ankle. He tied his hands, attached him to his motorcycle, and dragged him along the ground outside the market area. When his sister tried to intervene, the policeman beat her, tearing her clothes. Mohamed Morsy Saleh was taken to Al Haram Hospital, where he was refused admittance before he reported to Haram Police Station. The medical report indicated injuries to his left leg and a gunshot wound to his left foot had a gunshot wound to his left foot.

618. The Government informed that on 13 April 2004, he fled upon being approached by two security officers on patrol in the Pyramids area of Giza. They chased him and caught him in possession of drugs. He managed to get hold of a piece of iron and used it to strike and wound the two officers. He ran away and one of the officers opened fire on him, hitting him in the leg. The accused was then taken to hospital. Two persons at the scene corroborated the above version of events. The Department of Public Prosecutions decided to keep the accused in hospital while the investigation continued and to release the two security officers. There is no evidence that this man and his brother were beaten or tortured.

619. By letter dated 8 September 2004, sent jointly with the the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government responded by letter dated 11 November 2004:

620. **Iman Mahmoud Abdalla**, a 48 year-old housewife, 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 for 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.

621. The Government informed that investigations are continuing.

622. **Safaa Mohamed Ali Mahmoud**, a 37 year-old housewife, 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, and 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.

623. The Government informed that she was the sister-in-law of a suspected wanted in a shooting. After the man was arrested, she filed a number of complaints, which were proved to be baseless, in a bid to induce the investigating authorities to release the accused.

624. **Mabrouka Ibrahim Meselhy**, a 60 year-old housewife, Kafr El Sheikh. On 16 September 2003, officers from 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.

625. The Government informed that she assaulted and injured a policeman who was trying to arrest her son. When the woman was questioned, she claimed that she had been tortured by a police officer from Kafr Shakr. 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 before the courts.

626. **Nariman**, **Noha**, **Nehad**, **Noura** and **Nany Abdel Hafez Badawy**, all from Zawya Hamra. On 17 December 2003, officers from 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; Noha sustained bruises to her back and abrasions to the head; and Nany suffered bruises to her left hand and a broken finger on her left hand. No investigation has been carried out.

627. The Government informed that these women are the sisters of a man wanted in connection with a number of offences. When law enforcement officers attempted to arrest him, they were assaulted by his sisters who tried to stop them from making the arrest.

628. By letter dated 15 September 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government responded by letter dated 11 November 2004:

629. **A. R. A. L. R.**, age 14, Cairo. On 23 May 2003, he was arrested by 6th October City policemen in the vicinity of a youth club in the city's Sixth District. He was detained for six days and subjected to beatings and torture to make him confess to a number of thefts. On the seventh day he died after receiving an electric shock. On 30 May at 1pm, 6th October City police officers arrested and detained his father at the police station until 5pm and informed him that his son had died following an electric shock received while he was in the bathroom, and that his body had been taken to 6th October City's General Hospital. At 6:30pm, A. R. A. L. R.'s sister and mother went to the hospital in order to seek permission to bury him but were refused entry to the hospital. On the 31 May 2003, his sister saw his body and observed the

following injuries: long, parallel marks on his right arm; extensive bruises to his face; burn marks to the neck below the scalp; and bite marks to, and bruising of the chest.

630. The Government informed that on 30 May 2003, while remanded in custody for stealing electric cables, he was attempting to fix a water pipe in a cell at the 6th October City Police Station, Giza, when he touched an electric wire attached to a light switch and received a fatal electric shock.The incident was written up in the station's administrative report and some detainees in the same cell were questioned about what had happened. They denied that the young man had been tortured. According to the pathologist's report, the death was caused by a contact made between the body of the deceased and an electricity source. The papers were sent back to the Department of Public Prosecutions, which gave permission for the body to be delivered to the family of the deceased to make the necessary preparations for burial.

631. **Ahmed Mohamed Ahmed Amr**, age 35, al-Mahalla al-Kubra City. On 2 July 2003, he was arrested by the head of the al-Mahalla al-Kubra investigations unit (whose name is known to the Special Rapporteur), and detained for three weeks at al-Mahalla al-Kubra Police Station. Part of his detention was spent in a room known as the "fridge" (an empty room where investigations are carried out). He was injected in the sole of his right foot with a dirty hypodermic needle, from which he contracted blood poisoning and developed gangrene. He was taken to al-Mahalla al-Kubra District Hospital which transferred him to Samanoud Public Hospital. He died four days later after a serious drop in blood pressure caused by blood poisoning.

632. The Government informed that in June 2003, the investigations unit of Mahalla al-Kubra Police Station No. 1 arrested him on suspicion of a number of offences. He felt that his guilt was about to be discovered and so he used a hypodermic needle to inject himself with human waste (excrement) in order to pressurize the investigations unit into releasing him. The station did in fact release him without taking any legal action against him, because it was alarmed by the deterioration in his health. On 30 June 2003, he was taken to several public hospitals in Mahalla al-Kubra and Samnud after his right leg had become infected and had developed gangrene as a result of the injection. He was admitted for treatment to Samnud General Hospital. On 6 July 2003, he died in hospital, after developing blood poisoning.

633. **Rady Mostafa Ahmed Nassar**, a tinsmith, al-Mahala al-Kubri. On 15 October 2003, he was arrested by the al-Mahal al-Kubra Judicial Verdicts Implementation Unit Nassar in pursuance of an earlier verdict against him, and taken to the transfers section of Tanta Police Station No. 2. On 18 October, he was taken to the Khalfiyya Transfers Section, Cairo. The following morning his brother went to enquire about him but police officers denied that he was in their custody. He was found in the al-Sahal Police Station in extremely poor health with wounds behind the right ear and back. He was kept in iron shackles until he was close to death, and upon the insistence of his family he was taken to al-Khazandara Hospital, where he died upon arrival on the evening of 19 October.

634. The Government informed that on 15 October 2003, he was arrested by the judgements' enforcement unit of Mahalla al-Kubra Police Station No. 1. He was taken to the Khalifah transfers section in Cairo and handed over to Sahil Police Station for the completion of the requisite legal formalities. While being held in a cell at Sahil Police Station, he became very ill. He was taken by ambulance to Sahil Teaching Hospital, where he died upon arrival.

Some of the persons Sharing his cell were questioned, and said that he had suddenly felt ill, but that none of the station officers had harmed him in any way. Medical certificates were also found in his clothing, indicating that he had had a history of chronic illness. When no evidence of foul play was found following a medical exam, the Department of Public Prosecutions gave permission for the deceased to be buried.

635. **Mahmoud Mohamed Tamman**, age 65, Ain Shams, Cairo. On 27 October 2003, policemen in plain clothes entered his home in order to arrest his oldest son. An officer of the Police Investigations Unit (whose name is known to the Special Rapporteur) beat him with a pistol on his chest until he lost consciousness. The family was prevented from seeking medical assistance for him, and he died shortly. The police arrested family members, and forced his son to make a statement saying that his father had died from natural causes, in return for the release of those detained.

636. The Government informed that on 27 October 2003, the investigations unit of Marj Police Station attempted to arrest his son for setting a fire. As he was being arrested, several of his family members crowded around to try to help him to escape and to prevent the officers from making the arrest. There was pandemonium at the scene and Mahmoud Mohamed Tammam had a heart attack and died on the spot. According to the results of the autopsy the cause of death was a sudden drop in blood pressure and acute respiratory failure brought on by a coronary embolism. The Department of Public Prosecutions gave its permission for the body to be buried. None of the members of the family accused any of the personnel of Rawd al-Farj Police Station of having caused the man's death or of assaulting him.

637. **Samir Ezzat Salah al-Sherif**, age 20, al-Daqhilayya. On 12 December 2003, he was arrested on a misdemeanor charge of assault, brought to the Sherbeen Prosecution Office, and remanded in custody at Sherbeen Police Station for the duration of the investigation. In detention he was subjected to electric shocks and burned with cigarettes by the officers. He was also punched, kicked, hung from a door after being stripped naked, and beaten with a stick. He suffered burns to the right hand and left palm, extensive bruising to the back, injuries to the nose, and loss of movement in both feet. On 15 January 2004, he was transferred to Sherbeen Hospital, which refused to accept him because of his severe injuries. He was returned to the police station where he remained without receiving any medical treatment until his death on 19 January 2004.

638. The Government informed that on 19 January 2004, while he was being held in a prison cell at Sherbeen Police Station, he became very ill and was taken to the public hospital, but he died there, after being examined by some hospital doctors. An autopsy found the cause of death to be a sudden drop in blood pressure, acute respiratory failure and heart failure. The persons who shared his cell at the police station testified that he had not been eating because he had become traumatized and agitated after learning that the victim of his crime had died. The case is still being examined by the courts.

639. **Mohamed As-Sayed Nagem**, age 30. Confined to a wheelchair, on 31 December 2003, he was arrested and taken to state security headquarters in Benha. He was detained until 7pm on 6 January 2004. At the time of his release he was in a coma and died the following morning. No investigation has been carried out.

640. The Government informed that on 31 December 2003, he was arrested and brought in for questioning in connection with a case of extremism and terrorism. He was released on 5 January 2004, after the questioning had been completed. He died on 7 January 2004 at his home. He had a history of chronic illness.

641. **Mohamed Hassan Hassan Abdallah**, a 55 year-old watchmaker, Ein Shams, Cairo. On 3 January 2004, he was arrested and taken to Azbekeya Police Station. He died at dawn the next day custody. The family found the following injuries on his body: bruising and injuries to the scalp, neck and back.

642. The Government informed that on 3 January 2004, he was arrested by the investigations unit of Azbakiyah Police Station for possessing a bladed weapon and for being unsteady on his feet after consuming alcohol. While he was being taken to a cell at the station, he got into a fight with a police officer and assaulted and injured him. The officer pushed the man away in self-defence and the accused fell and hit his head against an iron door, injuring himself. He was taken to the Coptic Hospital for treatment, but died there. The Department of Public Prosecutions decided to detain the officer and to open an investigation.

643. **As-Sayyed Moustafa Moussa**, a 35 year-old coffee shop employee, Giza. On 15 February 2004, he was arrested by a Detective of al-Baragil Police Station (whose name is known to the Special Rapporteur), pursuant to an earlier sentence issued for fraud, and was taken to Awsim Police Station. He was beaten during his arrest, and in detention he was punched and kicked in order to force him to inform the police officers of the whereabouts of his wife, who also had a prison sentence issued against her. He suffered injuries to his right ankle. On 19 March 2004, he was taken to Aswim General Hospital for treatment and returned to the police station the same day. He died on 21 March. The family found injuries to his back when they came to collect his body for burial.

644. The Government informed that on 21 March 2004, he died in a cell at Awsim Police Station, Giza.The medical examiner identified the cause of death as inflammation of the left leg (elephantiasis). No evidence was found of foul play.

Urgent appeals

645. On 8 April 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the right to health regarding **Ahmed Hussein Mustafa Kamil Agiza**. He was reportedly sentenced in absentia by a military court to 25 years in prison and forcibly returned to Egypt by the Swedish Government on 18 December 2001 (cited in a previously transmitted communication, E/CN.4/2003/68/Add.1, para. 461 and 462). According to the allegations received, since then, and despite the diplomatic assurances received by the Government of Sweden from the Egyptian Government, concerning the treatment of Ahmed Agiza in accordance with international human rights standards, he has been tortured and subjected to ill-treatment, and continues to be at risk thereof. Upon arrival in Egypt in December 2001, he was held incommunicado for five weeks at the State Security Department. Here he was kept in an underground room and forced to write what was dictated to him at risk of beatings and electric shock if he objected. He was forced to lie naked on a mattress made of sponge while his hands

and feet were tied and electric shock was applied to him. During the treatment, a doctor applied cream to the burns to minimize scarring. Following his transfer to Istiqbal Tora Prison, he was detained in a very small cell that was bare and unlit. For long periods, Ahmed Agiza was handcuffed and not permitted to use the toilet. Later, he was permitted to use the toilet once every 24 hours. He was threatened with further torture if he revealed his treatment to anyone; the threats were carried out on one occasion when he did reveal his treatment to the visiting Swedish Ambassador; and he subsequently chose to remain silent. On 19 February 2004, Ahmed Agiza was transferred suddenly and without any notice to Abu Zaabal Prison outside Cairo. He was told that he was going to be examined by doctors at a general hospital in Cairo. For a few days his whereabouts were unknown and he had no visitors until 8 March, when the Swedish authorities visited him. It is reported that Ahmed Agiza's condition was so poor that the authorities requested another visit within two weeks. Ahmed Agiza's mother has been denied visits at Abu Zaabal despite repeated attempts. Ahmed Agiza suffers from an ulcer and has severe back injuries which stem from or have worsened since his detention. He is in need of surgery and medication. Medical treatment in prison has been withheld periodically as a form of ill-treatment. While he has been examined by doctors for his back ailment, they have not carried out examinations with respect to allegations of torture. Ahmed Agiza has only met with his lawyer once in over two years. On 3 April, it was announced that a new military trial has been scheduled to take place on 10 April and Ahmed Agiza has not been permitted to consult with his lawyer.

646. By letter dated 7 May 2004, the Government informed that the sentence imposed on Ahmed Hussein Mustafa Kamil Agiza in military crimes case No. 98/8, concerning conspiracy to wage Jihad inside and outside of the country, is currently being reviewed in the light of the decision of the President to accept the petition filed by Mr. Agiza. Since his incarceration, Mr. Agiza has received visits from members of the Swedish diplomatic and consular services (21 visits), his family (53 visits) and his lawyers (four visits). Mr. Agiza is receiving continuous medical treatment and has been given medical examinations at the Manil University Hospital (38 times). He has also undergone medical tests (a magnetic resonance imaging scan of the spinal column; an ordinary X-ray of the urinary tract; a thyroid scan; a sinus scan and a muscle scan) and has had 14 sessions of medical therapy at the Liman Turrah Hospital. This man persists in flouting prison rules and regulations and recently, in February 2004, mounted a one-man protest against the management of the prison in which he is being held. There is no evidence to support the allegations in the complaint that this person has been tortured.

647. 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 violence against women, concerning **H. S.**, a 17 year-old Coptic girl. According to the allegations received, on 6 April 2004, she was abducted in Cairo. On 7 April, the family reported the disappearance to Rod El Farag Police Station and told the police that a 30 year-old man could be related to her disappearance as she had complained that he had bothered her on the way 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 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 did not provide the family with proper protection and security.

648. By letter dated 20 September 2004, the Government informed that on 7 April 2004, her father reported to Rawd al-Farj Police Station that she 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 information of 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 around , H. S. was handed over to her father, after the family provided an undertaking that they would not harm her. At 11:30pm, H. S.and her father, accompanied by a policeman returned to the station. The policeman reported that a girl had appealed for help after her relatives tried to force her against her will to enter the 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 this 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.

649. On 16 July 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to health, and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding regarding the **El Nadim Centre for the Psychological Rehabilitation of Victims of Violence**. The Centre was founded in 1993 by a collective of doctors and psychiatrists, and operates as a clinic registered with the Doctor's Syndicate. It provides treatment and rehabilitative services to victims of torture by police and security forces as well as victims of domestic violence. It also assists victims by bringing their cases to the attention of relevant authorities and by pursuing criminal charges against the perpetrators. According to the allegations received, on 11 July 2004, agents of the Ministry of Health entered the Cairo offices of the El Nadim Centre and confiscated documents, including patient files and the Centre's publications and took photographs of the premises. Their behaviour was aggressive and threatening. The agents of the Ministry of Health later filed a complaint with the Ministry of Health accusing the El Nadim Centre of using the clinic for prohibited purposes.

650. By letter dated 20 September 2004, the Government informed that persons against whom the complaint was brought denied the allegations and added that they had carried out the inspection pursuant to article 11 of the Regulation of Medical Institutions Act No. 51 of 1981. The inspectors said that they enjoy the same status as investigating officers. They

reported a number of infractions: the state of the premises did not meet the required hygiene standards; the centre had a doctor whose name was not registered on its operating license; it had no technical director; and it published books and material even though it was not authorized to do so under article 10 of the 1981 Act. Some photographs were taken as corroboration of the infractions. The inspectors' report had been sent to the Chief of the Cairo Health Sector, who transmitted some of the documents to the Ministry of Health. Legal measures were taken to the effect that remedial action within one month was required otherwise the license would be revoked. The centre had been inspected on 24 August 2004 to verify whether the infractions had been remedied. It was closed down and then inspected again on 31 August, when it was found to have remedied most of the infractions. Investigations are continuing.

Follow-up to previously transmitted communications

651. By letter dated 7 May 2004, the Government provided information concerning **Amal Faroug Mohammad al-Maas** (E/CN.4/1999/61, para. 193, and E/CN.4/2001/66, para. 425). The Government informed that in 1996, she was arrested on suspicion of terrorist activities. There is no evidence to support the allegations.

652. By letter dated 25 May 2004, the Government provided further information concerning **Ashraf Ibrahim** (E/CN.4/2004/56/Add.1, para. 574, 597). The Government informed that he was acquitted by court ruling of 6 March 2004.

Equatorial Guinea

653. Por carta de fecha 6 de abril de 2004, el Relator Especial notificó al Gobierno que había recibido información según la cual **Leandro Mba** habría sido agredido el 12 de julio de 2003 por un capitán de la marina y dos de sus acompañantes. Al parecer, habría sido sacado a rastras de su coche y apaleado porque habría adelantado al vehículo del capitán en una de las calles de Bata. Habría sido conducido al cuartel de la marina del barrio Ukomba donde habría recibido otra paliza. Seguidamente habría sido ingresado al pabellón de cirugía del hospital regional de Bata, cubierto de hematomas.

Llamamientos urgentes

654. El 24 de marzo de 2004, el Relator Especial envió un llamamiento urgente juntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria en relación con la situación de **Nick du Toit**, **N.G. "Bones" Boonzaaier** y **Mark Anthony Schmidt**, de nacionalidad sudafricana, **Georgio Fernando Patricio Cardoso**, **Americo Jao Pimentel Riveiro** y **Abel Augusto**, ciudadanos sudafricanos de origen angoleño, así como los siguientes ciudadanos armenios: **Jose Passocas**, **George Olimpia Nuñez Allerson**, **Samvel Dabrinian**, **Ashot Karapetyan**, **Samvel Matshkalian**, **Razmik Khachatryan**, **Suren Muradyan** y **Ashot Simonyan**. Estas personas habrían sido detenidas el 9 de marzo de 2004 en Malabo y acusadas de actividades mercenarias y de organizar un golpe contra el Presidente Teodoro Obiang Nguema Mbasogo. Durante su detención, habrían sido gravemente torturadas. A N.G. "Bones" Boozaaier, enfermo desde antes de su arresto, se le habría negado recibir medicación. Los detenidos habrían sido mantenidos en la prisión de Black Beach, en Malabo, en régimen de incomunicación desde el día de su arresto y solamente una delegación

del Gobierno de Sudáfrica habría sido autorizada a visitarles el 18 de marzo de 2004. **Gerhard Eugen Nershz**, un ciudadano alemán que habría sido detenido junto a ellos, habría fallecido el 17 de marzo de 2004. Las autoridades habrían afirmado que la causa de su fallecimiento era una malaria cerebral. Sin embargo, testigos habrían declarado que presentaba señales de tortura en manos y pies.

655. El 24 de marzo de 2004, el Relator Especial envió un segundo llamamiento urgente juntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión en relación con la situación de **Weja Chicampo**, dirigente del Movimiento para la Autodeterminación de la Isla de Bioko (MAIB). Se alega que habría sido mantenido en régimen de incomunicación en la cárcel de Black Beach, en Malabo, desde el 4 de marzo de 2004. Los motivos de su detención se desconocerían. Según la información recibida, habría sido severamente torturado y las autoridades penitenciarias no le habrían hecho llegar la comida que sus familiares le habrían llevado a la cárcel.

656. El 18 de junio de 2004, el Relator Especial envió un llamamiento urgente juntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación con la situación de los Sres. **Francisco Briones Garriga**, **Alfredo Asumu Bakale Afang**, **Pedro Calderón Esono Meye**, **Antonio Mba Ndong**, **Andrés Ivina Doria**, **Marcelo Owono Bacal**, **José Luis Nong Muri**, **David Carlos Nguema Esono Maye**, **José Antonio Esono Obiang**, **Fernando Biyogo Ngua**, **Silvestre Ndong Nze**, **José Nzogo Bakale Engonga**, **Salvador Ndong Nguema**, **Ildefonso Nsuango**, **Jesús Micha Micha** y **Santos Obiang** y la Sra. **Purificación Bindang Bodomo**. Habrían sido arrestados el 29 de mayo de 2004, durante unos enfrentamientos con las fuerzas de seguridad en la Isla de Corisco. Las personas detenidas habrían sido trasladadas a la Comisaría Central de Bata, donde permanecerían detenidas. En una aparición en la televisión de Guinea Ecuatorial, habrían confesado haber viajado a Corisco con la intención de estudiar la situación y preparar una insurrección armada contra el Gobierno, bajo remuneración de un tal Adolfo Bicó, o Adolfo Micó, quien les habría reclutado y contratado. La Sra. Purificación Bindang Bodomo habría aparecido en televisión con el rostro quemado y una pierna rota. Los otros detenidos también habrían presentado huellas de maltrato físico. Se informa también que los Sres. **Nicolás Eni Obiang Abang**, **Diosdado Ndong Nze Mifenga**, **Pablo Ekang** y **Marcial Mendez**, así como una quinta persona no identificada resultaron muertas por las fuerzas de seguridad durante los incidentes. Otras 14 personas se habrían refugiado en los bosques de Corisco.

657. El 5 de julio de 2004, el Relator Especial envió un llamamiento urgente juntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator especial sobre el derecho a la salud en relación la situación de **Marcelino Nguema Esono**, antiguo dirigente del Partido del Progreso de Guinea Ecuatorial (PPGE), su cuñado **Jerónimo Mbá Obama**, miembro de Convergencia para la Democracia Social (CPDS), **José Antonio Nguema**, miembro del PPGE y **Leoncio**. Habrían sido detenidos el 27 de junio de 2004 en Bata y conducidos a la comisaría principal de la ciudad. El 29 de junio habrían sido trasladados a la cárcel de Black Beach, en Malabo, donde se encontraban incomunicados. En el momento de su detención, Marcelino Nguema Esono habría recibido una bala en el estómago. A pesar de su herida, no habría recibido ninguna asistencia médica. Hasta la fecha no habrían sido

formalmente acusados ni habrían sido informados de las razones de su arresto. Sin embargo, se alega que Marcelino Nguema Esono y José Antonio Nguema estaban buscados por la policía desde marzo de 2004, cuando otros miembros del PPGE, un partido ilegalizado, habrían sido detenidos, bajo la sospecha de organizar un golpe contra el Gobierno del Presidente Teodoro Obiang Nguema Mbasogo.

658. El 30 de julio de 2004, el Relator Especial envió un llamamiento urgente en relación con la situación de los Sres. **Marcelino Nguema Esono**, **Jerónimo Mbá Obama**, **José Antonio Nhuema** y **Leoncio** (véase también párr. 657 *supra*). Jerónimo Mbá Obama habría sido torturado después de su detención, el 27 de junio de 2004. También habría padecido un fuerte ataque de malaria y su estado de salud se habría deteriorado. El 13 de julio por la noche habría sido trasladado al hospital de Malabo. Sin embargo, dos días más tarde, los guardias de la prisión lo habrían reconducido a la cárcel de Black Beach, Malabo, sin autorización médica. Marcelino Nguema Esono, quien habría recibido una bala en el estómago, todavía no habría recibido asistencia médica alguna. Marcelino Nguema Esono, Jerónimo Mbá Obama, José Antonio Nhuema y Leoncio seguirían detenidos en régimen de incomunicación. Solamente se les habría proporcionado una botella de agua y dos trozos de pan cada cinco días. Por el mismo llamamiento urgente, se señaló a la atención del Gobierno información adicional sobre los Sres. **Pedro Esono Esono**, **Antonio Mbá Ndong**, **Alfredo Asumu** y **Francisco Briones Garriga** y la Sra. **Purificación Bindang** (véase párr. 656 *supra*). Alfredo Asumu habría sido colgado al techo de una celda y duramente golpeado. Debido a los golpes recibidos, ya no podría hacer uso de sus manos. Alfredo Asumu y Antonio Mbá Ndong habrían solicitado asistencia médica, pero se les habría denegado. El resto del grupo tampoco habría recibido atención médica. Se encontrarían todos detenidos en la comisaría principal de Bata, donde estarían constantemente maniatados.

Eritrea

Urgent appeals

659. On 18 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Aster Yohannes**, aged 45. According to the allegations received, on 11 December 2003, she was detained by security personnel at the international airport in Asmara, when she returned after a three-year period studying in the United States of America. She has not been permitted to see her family. Ms. Yohannes is a former member of the Eritrean People's Liberation Front (EPLF) and is married to Mr. Petros Solomon, a former Minister for Foreign Affairs who himself is reportedly detained incommunicado and in secret since September 2001. Ms. Yohannes is suffering from a heart ailment, as well as asthma.

660. By letter dated 9 February 2004, the Government informed that the allegations are self-serving absurdities. Ms. Yohannes is not in custody because of her husband's political opinions, or her own political views, but because of mismanagement of funds when she was heading the Export Department of the Ministry of Fisheries, which was then headed by her husband.

661. On 24 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression regarding **38 members of the Jehovah's Witnesses**. According to the allegations received, on 24 January 2004, the police arrested them while they were holding a religious service in a private home in Asmara. Ten were released without charge in the next few days, but 28 remain in custody, including children and a 90-year-old man. The whereabouts of the 28 persons are unknown.

662. On 11 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 the right to freedom of opinion and expression regarding **Pastor Mengist Tewelde-Medhin**, and **55 women, children and men** from the Hallelujah Pentecostal Christian church, Asmara. According to the allegations received, on 12 February 2004, police and security officers arrested them while they were participating in a religious service in a private home. It is believed that most of the arrested people are still being held incommunicado, without charge or trial, in police stations or army camps and are being ill-treated or tortured in order to force them to abandon their faith. Pastor Mengist Tewelde-Medhin is being held at Adi Abeto military prison, Asmara, in harsh conditions. Following their arrest, about 18 church members were taken to Mai Serwa military prison and punished for evading national service, which is compulsory for all males and females over 18. They are locked up in metal shipping containers, where conditions are said to be suffocating and in which temperatures range from zero degrees at night to 28C in the day. Twenty-five girls and boys were arrested and taken to the main Sawa military training centre, where they were locked up in a shipping container and forced to do farm work. Younger children were arrested and held in police custody for several days until their parents were finally allowed to take them home, allegedly after being made to sign a statement declaring they would no longer practice their religion. Older men and women were reportedly detained in police stations without charge or trial and allegedly coerced into abandoning their faith. Sme were released when they signed a statement in which they promised not to worship again. It is believed that persecution on the grounds of religion has intensified in Eritrea since the closure of "minority" Christian churches in May 2002. Reports were received of arrests in the past year of hundreds of "home worshippers" or military conscripts found with bibles (cited in previously transmitted communications, E/CN.4/2004/56/Add.1, paras. 632 and 635).

663. On 3 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 the right to freedom of opinion and expression, regarding **Haile Naizgi**, pastor and chairperson of the Eritrean Full Gospel Church, **Kiflu Gebremeskel**, pastor of the Eritrean Full Gospel Church, and **Tesfatsion Hagos**, pastor of the Rema Evangelical Church. According to the allegations received, on 23 May 2004, Haile Naizgi and Kiflu Gebremeskel were arrested at their homes in Asmara, and are currently held incommunicado in the 1st and 6th police stations, respectively. They had not been taken to court within the 48 hours required by law, or charged with an offence. Tesfatsion Hagos was arrested on 27 May while on a visit to Massawa port. His whereabouts are unknown.

664. On 20 July 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 the right to freedom of opinion and expression regarding Ms. **Akberet Gebremichael**, aged 30, **Asmerom Beraki**, aged 50, **Gebrehiwet Tedla**, aged 87,

Gebreselassie Adhanom, aged 94, **Mikias Gebru**, aged 19, Ms. **Rebka Gebretensae**, aged 39, **Samson Tesfalem**, aged 24, **Sertsu Yilma**, aged 55, **Tedros Atsbeha**, aged 25, **Tekle Gebrehiwet**, aged 40, **Tsegaberhan Berhe**, aged 41 and **Yemane Tsegay**, aged 41, all Jehovah's Witnesses (cited in a previously transmitted communication). According to the allegations received, the 26 individuals who were arrested at the same time as the 12 above-named persons have been released. However, the latter are still detained incommunicado at an unknown location, without charge or trial.

665. On 11 November 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, concerning **large scale round-ups of Eritrean males**. According to the allegations received, on 4 and 5 November 2004, the Eritrean Defense Force (EDF) conducted large scale round-ups in Asmara of Eritrean men between 18 and 40 years of age, however, during their search the EDF also arrested teenagers, college and university students, demobilized soldiers, policemen, national civil servants and foreigners who could likely be confused to be Eritrean. More than 50,000 men were arrested over this period. People were arrested in the streets, schools, workplaces and homes, in a harsh, systematic manner and without search warrants. Homes of United Nations staff members were also searched. It is reported that the round-ups were connected with the Eritrean National Service Policy. Eyewitnesses reported that all those who did not comply with the orders were publicly beaten. On the night of 4 November in Adi Abeto military camp, 4km outside Asmara, a riot between detainees and prison guards broke out, sparked by the lack of food provided by the guards. Some detainees attempted to escape over a wall, which subsequently collapsed. A shooting incident followed with at least 25 deaths, including five guards, and around 100 people were injured. They are reportedly receiving medical treatment at Halibet Hospital. Conditions in the camp are severe, with little sanitation, and detainees have been forced to sleep outside in the cold without blankets or shoes. The prisoners have no access either to their families or to lawyers. According to the Eritrean National Service Proclamation No. 82/1995, all Eritrean citizens between 18 and 40 years old are required to perform 18 months' military and national service. However, following the conflict with Ethiopia, this obligation continues to be prolonged indefinitely. The Government has reportedly called up United Nations national staff members for service, in contravention of section 18 (c) of the 1946 Convention on Privileges and Immunities. Since the beginning of 2004 more than 50 staff members of the United Nations Mission in Ethiopia and Eritrea (UNMEE) have reportedly been arrested and detained of which four are still unaccounted for. In an incident reported in past months, about 30 national staff of UNMEE were arrested while returning home on an UNMEE bus. Some of these persons were immediately sent to the military camp in Sawa.

Follow-up to previously transmitted communications

666. By letter dated 29 January 2004, the Government provided information concerning **about 400 students** (E/CN.4/2004/56/Add.1, para. 629). The Government informed that on 11 August 2001 a few hundred students were demonstrating in front of the High Court, primarily for evading a summer vacation work programme, and were arrested for demonstrating without a permit and disturbing the peace. The students were briefly sheltered in Asmara Stadium, which is covered, and has sufficient seating and toilet facilities to accommodate over 10,000 spectators. They were then taken to join over 3,000 of their

schoolmates who had responsibly started participating in the summer vacation work programme. It was unfortunate that two of the students had died of sunstroke. This is not a daily occurrence and could have happened in other work sites too. Thus it is not in any way possible to link it with torture or mistreatment. The summer vacation work programme has been going on for several years and takes place all over Eritrea. There is no substance to the malicious allegations made by persons with political motives and determined to malign the Government. It is untrue that security personnel had mistreated parents who wished to see their children, although there may have been exchanges of strong words between them. It is also untrue that they were tortured or physically abused or even treated in any way different from their other schoolmates. It must be noticed that all but five of these students went back to their families and schools after completing the three-month programme. It is true that five were delayed for about five weeks for disciplinary reasons. It is also untrue that Semere Kessete was held incommunicado in a high-security prison. The fact that he was able to escape easily is ample evidence that he was placed in a relaxed facility. Torture is alien to Eritrean culture and a brief study of the history of the liberation struggle, during which tens of thousands of Ethiopians have been taken prisoner will clearly demonstrate that not even enemy soldiers have been mistreated. It is thus unconscionable that the Government would mistreat, let alone torture, its own citizens, and school children at that. On the other hand it is not (as in anywhere else in the world) impossible that some individuals may have acted improperly. On such occasions, it is customary that disciplinary action is taken by appropriate authorities at all levels of responsibility. This is certain because it is standard disciplinary procedure. Needless to say, no systematic violation of human rights took place to warrant attention, let alone action. In spite of the paucity of its resources, the Government is fully committed to the protection of its citizens and will undertake appropriate investigations and when necessary, impose appropriate sanctions, on any person found guilty of the infringement of the rights of citizens.

Ethiopia

Urgent appeals

667. On 23 January 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression regarding **Ahmed Haji Wasse**, a reporter for the information department of the Afar region, who was covering the fighting between Afar rebels and government troops in the Afdera district. According to the allegations received, on 3 October 2003, he was arrested in Asaita, a town in the Afar region by the security forces, and has disappeared since then.

668. On 27 January 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 the right to freedom of opinion and expression regarding **Terfessa Barkessa**, **Million Diriba**, **Getachew Gadissa**, **Imira Gemechu**, **Tamirat Gemechu**, **Temesgen Gemeda**, **Balina Manocha** and **Merga Namo**, male students from the Oromo ethnic group. According to the allegations received, on 18 January 2004 in the evening, they were arrested on the Addis Ababa University campus by police officers after protests at a cultural performance stage by the Oromia region ruling party. They were taken to Kolfe police camp. Some reports claimed that over 500 students were arrested and that 240 were still detained. On 22 January 2004, police reported that 315 students had been released but suspended for a

year, and that 18 remained in custody for possible charges of criminal damage or expulsion from the university.

669. On 20 April 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 the right to freedom of opinion and expression concerning **Abebe Chimdi**, **Dinsa Serbessa**, **Mosissa Futasa**, **Tesfaye Teressa**, **Ashebir Oncho**, **Merga Legesse**, **Woldeyesus Mengesha**, teachers in Gudar High School and in Ambo secondary school and some **50 others**. According to the allegations received, on 9 April 2004, they were arrested in the western Oromia Region, west of Addis Ababa, in connection with demonstrations by school students in the towns of Ambo and Gudar that began in late February 2004. These persons are detained incommunicado in a police detention centre in Ambo Palace. In the context of these demonstrations, many of the demonstrators were severely beaten. Some are said to have been released after some days with warnings, but hundreds are allegedly still in detention without charge or trial.

670. 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 violence against women regarding the situation in the **rural areas of Gambella**. In a communication dated 30 January 2004 by the Special Rapporteur on extrajudicial, summary or arbitrary executions, during the period between 13 and 15 December 2003, 424 Anuak were reportedly killed by Ethiopian government troops along with local people from highland areas, in the towns of Abobo, Itang, Gog and Gambella. Over 200 were wounded and approximately 85 people remain unaccounted for. 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 on members of the Anuak ethnic group. Recent reports indicate that killings and other acts of ethnic cleansing are continuing. According to the allegations received, some 1,100 persons belonging to the Anuak people were killed by Ethiopian troops. Entire villages have been burnt to the ground, sometimes with the occupants still in their homes, and crops have also been destroyed. Many villagers have been forced to flee, and thousands have travelled to a refugee camp in Pochalla in the Sudan. Destruction is said to be widespread, with hundreds of homes and fields set ablaze, leaving thousands of persons without shelter or food. The upcoming rainy season will expose these persons to disease and starvation unless immediate humanitarian action is taken. Around 5,000 Ethiopian troops have been engaged in fighting against Anuak farmers at Tedo village since 10 April 2004, and have burned down all of the village's houses and crops. The troops may now be moving towards Pochalla refugee camp in the Sudan. Certain groups are being specifically targeted, such as Anuak women and girls, who have been systematically raped. A police officer is said to have recorded 138 cases of rape in Gambella in December 2003, before being ordered to stop recording cases. Educated men are being subjected to selective, politically motivated extra-judicial executions. Several hundred persons, including community leaders have been arbitrarily arrested, many of whom are being detained incommunicado and subjected to torture.

671. On 23 June 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 right to freedom of opinion and expression and the Special Rapporteur on

the right to health regarding **Imiru Gurmessa Birru**. According to the information received, he was arrested in mid-March 2004 and has not been charged despite at least five court appearances. The hearings were adjourned on each occasion to allow the police additional time to present evidence against him. At the time of his arrest, he was beaten at the central police investigation unit known as Maikelawi, and was denied medical treatment for his injuries and for his diabetic condition. Imiru Gurmessa Birru's state of health was ignored at the hearings, and subsequently it deteriorated to the extent that he required hospitalization at the Police Hospital, Addis Ababa, around 11 June 2004. He continues to be denied adequate medical treatment. Imiru Gurmessa Birru was detained without charge in 2000 for supporting the Oromo Liberation Front, was tortured and has suffered ill health ever since.

672. On 29 September 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 the right to freedom of opinion and expression regarding **Abdu Mohamed Zein**, **Abdulaziz Abba-Fitta**, **Balina Gudina**, **Getinet Gemechu**, Ms. **Khadija Hassan**, **Siraj Mohamed** and **Tesemma Olessa**. According to the allegations received, on 26 August 2004, they were arrested in Agoro town, Oromia region, along with a number of other people accused of having links with the armed opposition Oromo Liberation Front. Some of them were subjected to torture and other forms of ill-treatment while in detention. The whereabouts of Getinet Gemechu are unknown since his arrest. The other detainees are being held in incommunicado detention without charge or trial in Agaro Prison. They have not been brought to court within the 48-hour period required by law.

France

673. Par lettre en date du 15 septembre 2004, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des allégations sur les cas individuels suivants :

674. **Lander Fernández Harrinda**, un homme de 23 ans, aurait été arrêté à Graulhet le 18 novembre 2003 par des membres de la Division nationale de lutte antiterroriste (DNAT). Il aurait été transféré à Toulouse et ensuite à Paris. Il aurait été placé en détention au secret durant trois jours. Lors d'un interrogatoire à Toulouse, un agent l'aurait giflé et aurait proféré des menaces contre lui tout en le poussant contre un mur. A Paris, il aurait été interrogé assis sur une chaise avec une main attachée au sol. Il aurait été giflé et aurait reçu des coups de pied et de poing chaque fois qu'il se refusait à répondre aux questions qu'on lui posait. Il aurait également été poussé violemment contre un mur et frappé à la tête avec un gros livre. Il aurait par la suite été transféré en prison. Une plainte aurait été déposée concernant le traitement supposément reçu durant la détention.

675. **Garazi Aldana**, une femme de 22 ans, **Ibon Fernández Iradi**, un homme de 31 ans, et **Patxi Abad Urkijo**, un homme de 27 ans, auraient été arrêtés à Mont-de-Marsan le 4 décembre 2003 par des agents de la DNAT et de la police judiciaire. Ils auraient été placés en détention au secret pendant trois jours et, par la suite, transférés en prison. Lors de son arrestation, Garazi Aldana aurait été tirée par les cheveux et jetée par terre. La tête couverte, elle aurait été frappée contre le sol. Elle aurait été emmenée au commissariat de Bordeaux où elle aurait été menacée et insultée. Plus tard, on lui aurait couvert la tête en la serrant fortement avec un vêtement, ce qui lui aurait coupé la respiration. Dans le quartier des femmes de la prison de Fresnes, elle aurait été déshabillée de force et obligée à se tenir

baissée. Lors de son arrestation, Ibon Fernández Iradi aurait reçu des coups sur tout son corps alors que sa tête aurait été couverte avec son pull et ses mains attachées avec des menottes serrées au point de lui causer de la douleur. Il aurait été placé face à un mur avec la tête baissée et un agent aurait appuyé son genou contre son dos. Il aurait également reçu des coups lors de son transfert à Bordeaux, où il aurait été placé dans un cachot. Il aurait été examiné plusieurs fois par un médecin. Bien qu'il se soit plaint de douleurs au dos, de difficultés respiratoires et d'une blessure au genou, le médecin aurait affirmé que ce n'était rien de grave et que ces lésions étaient sûrement dues à une chute. On lui aurait donné des pastilles analgésiques. Le 7 décembre, il aurait été conduit à Paris, où il aurait été interrogé à nouveau. Lors d'un des interrogatoires, on lui aurait bandé les yeux. Il aurait expliqué au juge les traitements subis lors de sa détention, en lui montrant les marques visibles sur son corps. Alors qu'il était en prison, on lui aurait fait des radiographies qui auraient révélé qu'il avait deux côtes cassées. Lors de sa détention, Patxi Abad Urkijo, aurait été immobilisé au sol et aurait reçu des gifles et des coups de pied. Plusieurs agents l'auraient frappé au visage, au cou et à l'estomac avant de l'introduire dans une voiture. Dans la voiture, il aurait été frappé à nouveau, alors qu'il était menotté, et la tête baissée et couverte avec un pull. Il aurait été attaché durant près de 14 heures avec des menottes trop serrées. Cependant, les agents ayant perdu la clé, il n'aurait été possible de les ouvrir qu'avec des tenailles et au bout d'un certain temps. Une fois démenotté, ses mains auraient gonflé et il aurait eu du mal à les bouger. Lors des interrogatoires au commissariat de Bordeaux, il aurait été forcé à se tenir dans des positions très inconfortables. Sa tête aurait été frappée contre une porte. D'après les renseignements reçus, lors de son arrivée en prison, il souffrait de douleurs dans le cou, la partie postérieure de la tête et les poignets, et présentait des hématomes au visage et des blessures à la bouche.

Georgia

676. By letter dated 16 September 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations concerning:

677. **Giorgi Mshvenieradze**, a 21-year-old election-observer and member of the Georgian Young Lawyers Association, Kutaisi Branch. On 2 November 2003, he was beaten and detained by Adjara Autonomous Republic police, when he alerted members of the election commission of an attempt of a local person, who later turned out to be a policeman in plain clothes, to stuff ballots at polling station number 23, Kobuleti district. On 5 November 2003, Giorgi Mshvenieradze was convicted and sentenced to three months' imprisonment in Batumi Prison No. 3 on charges of "hooliganism", "infringing on the expression of the will of the electorate", and "committing a crime against a government official." He was released on 7 December 2003.

678. **Vakhtang Komakhidze**, a reporter for the programme *60 Minutes* of the Rustavi-2 television station. On 5 March 2004, as he was driving to Batumi, Republic of Ajaria, he was stopped by transit police at a checkpoint. Unidentified men in black uniforms forced him out of his car and began to beat him, and confiscated his video camera, tapes and documents. The transit police did not prevent the beating. He was treated for serious injuries in a Batumi hospital. Vakhtang Komakhidze was investigating corruption by officials of the regional government.

679. By letter dated 5 October 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations concerning:

680. **Diana Trapaidze**, from Imedi television channel, **Nestan Sheckhladze** from Rustavi 2 television channel, and Tedo Jorbenadze, from the magazine *Batumelebi*. On 10 January 2004, police officers in Batumi assaulted them after they filmed the police ripping down posters of the Kmara movement. The three journalists were held for less than one hour and released after the intervention of a former Adjarian Member of Parliament and Interior Ministry Press Officer.

681. **Mzia Amaglobeli** and **Eter Turadze**, both from the magazine *Batumelebi*. On 11 January 2004, around 15 men dressed in black beat the journalists, who were covering a demonstration in support of the President. On 25 January 2004, the police again targeted them during a demonstration against the local government in Batumi. The police seized and destroyed their equipment.

682. **Vakhtang Komakhidze** (cited in a previously transmitted communication).

Urgent appeals

683. On 9 June 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Gia Lobzhanidze** and **Valeri Kurtanidze**. According to the allegations received, on 22 April 2004, the two men were attacked by five or six armed men in Tbilisi at the entrance of the 5th block of Digomi district, and taken to the police department of the Didube-Chugureti region. The police kicked and beat them with the butts of their handguns in order to obtain confessions in relation to a robbery of a flat. When they refused, Gia Lobzhanidze and Valeri Kurtanidze were taken to the City Main Office of Internal Affairs, where they were subjected to further torture. It is alleged that live wires were applied simultaneously to the toes of Gia Lobzhanidze feet, which were drenched with water. His ears were connected to wires too. He bit through his tongue and could not move it, speak properly or eat for several days. After he lost consciousness he was reportedly revived by the policemen with spirits. Following this, Gia Lobzhanidze, who is left-handed, was forced to write a confession with his right hand. He was provided with no medical care. The court-appointed medical expert, who examined Gia Lobzhanidze on 27 April 2004, concluded that the injuries he sustained were consistent with his account. The report further indicated that the men had been injured by a solid and blunt object. The trace of an electric wire was also detected near Valeri Kurtanidze's ear. At present Gia Lobzhanidze and Valeri Kurtanidze are serving three months of pre-detention in Prison No. 5, and have expressed fear of further abuse.

Germany

684. By letter dated 20 September 2004, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government responded by letter dated 20 November 2004:

685. **Andre Heech**, aged 30. On 14 February 2003 at 9 a.m., he was arrested for drunken behaviour by police officers in the vicinity of railway station in Frankfurt am Main. He was taken to the Fourth District Police Station and detained for one hour. In a police cell, as he sat on a bench, one of the three police officers present hit the right thigh of his amputated leg three times with a long metal object. He was denied medical treatment. Andre Heech was only able to call for medical help from a bar after being released, and he was taken by ambulance to the Johann Wolfgang Goethe University Clinic, where he underwent surgery for a fractured right thighbone. Three steel pins were inserted into the thighbone. He was released from the hospital on 18 February 2003 and charges of bodily harm were lodged against the police officers in April 2003. By the end of October 2003 it was reported that criminal proceedings against the police officers had been discontinued.

686. The Government informed that he was picked up for drunkenness and released from custody shortly afterwards. Upon being released he went to a restaurant and called for help after experiencing pain in his leg. He received treatment for a broken thighbone, after which he alleged ill-treatment by the police officers. The public prosecutor's office at the Frankfurt Regional Court instigated investigative proceedings against the police officers involved after criminal charges were brought on 25 February 2003. The officers denied the allegations. Extensive investigations revealed that Mr. Heech's account of how he sustained his injuries was inconsistent and contradictory, ranging from not remembering falling, to recalling that he had fallen, and to his legs being forced apart while being searched. Moreover, the surgeon who operated on his leg at the University Clinic indicated there were no bruises, skin lesions or haematomas on his leg that would be consistent with being struck with a metal object. Subsequently, the public prosecutor's office terminated investigative proceedings on 11 August 2003, and the appeal against this decision was rejected.

687. **Magnus Gäfgen**, a 28-year-old law student. On 30 September 2002, he was arrested when he went to collect the ransom money in connection with the kidnapping of a young boy in Frankfurt, who disappeared three days earlier. The next day, the police interrogators, after several hours of questioning and pursuing false leads given by Magnus Gäfgen, and concerned for the welfare of the boy, reportedly threatened him with torture on the written instructions of the Deputy Police President of the Frankfurt.

688. The Government informed that investigations carried out by the Frankfurt Regional Court public prosecutor's office indicated that on 1 October 2002, in the interests of locating the kidnapped child, the Deputy Police Commissioner verbally ordered that Magnus Gäfgen be questioned by means of the infliction of pain (without causing injury), under medical supervision, and subject to prior warning. The Deputy Chief Inspector uttered these threats to Magnus Gäfgen, who then revealed the location of the child's body. After extensive investigations, the public prosecutor's office brought charges against the Deputy Chief Inspector for unlawfully coercing a person with force or threat of an appreciable harm, and in an especially serious case, abusing his powers and position as a public official, and against the Deputy Police Commissioner for the same offences, as well as for suborning a subordinate to commit an unlawful act in public office. The trial was set for 18 November 2004, and the decision is expected at the beginning of 2005.

Guatemala

689. Por carta de fecha 6 de septiembre de 2004, el Relator Especial, juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Representante Especial del Secretario General para los defensores de los derechos humanos, notificó al Gobierno que había recibido información en relación con **Gerardo Montenegro, Luis Romero, Mynor Tuc, Edwar Morales, Mario Morales, Julio Rodas, Francisco Revolorio** y **Dervin Revolorio**, periodistas de varios medios de comunicación en Guatemala.

690. Según la información recibida, el 31 de agosto de 2004 estos periodistas habrían sido agredidos por agentes de la Policía Nacional Civil (PNC) durante un enfrentamiento armado entre campesinos y las fuerzas del orden. Los hechos habrían tenido lugar durante el desalojo forzado de más de mil campesinos de la Finca Nueva Linda, Puerto Champerico, departamento de Retalhuleu, al que los campesinos se habrían opuesto. Se alega que los policías habrían golpeado a los periodistas, tirándolos al suelo y pateándolos, y habrían confiscado sus equipos de trabajo, incluso cámaras fotográficas y de televisión. Los agentes de la PNC habrían agredido a los periodistas cuando éstos habrían intentado cubrir el supuesto excesivo uso de fuerza con la que la policía habría actuado en contra de los campesinos. En particular, los periodistas habrían intentado filmar cómo unos policías golpeaban a un campesino gravemente herido. Según se informa, varios policías y campesinos habrían fallecido durante el desalojo, y otros habrían resultado heridos.

691. Se teme que estos actos de violencia en contra de los periodistas puedan estar directamente relacionados con su trabajo de difundir las imágenes de las supuestas violaciones de derechos humanos cometidas por los agentes de la PNC en contra de los campesinos.

Llamamientos urgentes

692. El 19 de marzo de 2004, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Representante Especial del Secretario General para los defensores de los derechos humanos en relación con la situación de **Victoriano Zacarías Mindez**, Secretario ejecutivo de la Central General de Trabajadores de Guatemala (CGTG) y Secretario General del Sindicato de Pilotos Automovilistas y Similares de Guatemala, así como **Wilson Carreto** y **Miguel Angel Ochoa**, directivos de la Unión de Pilotos de Transporte Pesado por Carretera, quienes habrían sido detenidos el 25 de febrero de 2004, supuestamente de manera violenta, por las fuerzas estatales de seguridad en la ciudad de Guatemala. Según las informaciones recibidas, estas tres personas se habrían manifestado contra la medida que habría implementado la Municipalidad de Guatemala, por la que se restringía la circulación de vehículos pesados en la capital, lo que obligaba a los conductores a trasladar su trabajo a horarios nocturnos y peligrosos. Durante esta manifestación, se habrían observado incidentes de orden público. Debido al derrame de gasolina de dos cisternas que se colocaron en un cruce de avenidas en el centro de Guatemala, a las personas detenidas durante la manifestación, se les habría tipificado entre otros cargos, el de "terrorismo". Sin embargo, según testimonios, este acto habría sido realizado por personas infiltradas dentro de la manifestación para provocar el caos. De acuerdo con las informaciones recibidas, Victorio Zacarías Mindez, Wilson Carreto y Miguel Ángel Ochoa se encontraban detenidos en

incomunicado en una cárcel judicial preventiva, en condiciones de hacinamiento y de insalubridad debido a la deficiencia de las instalaciones.

Guinea

Appels urgents

693. Le 14 avril 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression concernant **Roughui Barry** (f), une militante de l'Union des forces républicaines (UFR), un parti de l'opposition. Elle aurait été arrêtée le 29 mars 2004 à son domicile dans une banlieue de Conakry par des agents de la Direction centrale de la police judiciaire et conduite au tribunal de première instance de Kaloum. Les motifs de son arrestation comme l'endroit où elle se trouverait détenue au secret n'auraient pas été dévoilés. Des craintes ont été exprimées que sa détention puisse être liée à ses activités au sein de l'opposition politique et à des propos critiques vis-à-vis du gouvernement tenus lors d'une émission radiophonique.

Haiti

694. Par lettre en date du 6 avril 2004, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants :

695. **Bickson Altidor**, âgé de 20 ans, et sa mère, **Berette Mondésir**, âgée de 43 ans, auraient été arrêtés par des agents de police (dont les noms sont connus du Rapporteur spécial) et un juge du tribunal de paix des Cayes, chez eux à Pèlerin, première section communale des Cayes, le 16 juillet 2003. Mère et fils auraient été bousculés et auraient reçu des coups de poing et de crosse de revolver et des gifles. Berette Mondésir aurait été menacée de mort avec une arme. Ils auraient été tous les deux conduits au commissariat des Cayes où ils auraient été à nouveau passés à tabac. La tête de Bickson Altidor aurait été frappée contre un mur plusieurs fois. Les deux détenus auraient passé la nuit en garde à vue avec de fortes douleurs et de la fièvre. Ils auraient été remis en liberté le 17 juillet 2003 sans être présentés devant un juge.

696. **Laurent Louisset**, un commerçant de 27 ans, aurait été blessé par des agents de l'Unité départementale de maintien d'ordre (UDMO) de la police nationale alors qu'il traversait la route nationale de Saint-Louis du Sud le 6 août 2003. Les agents lui auraient ordonné de se coucher par terre mais Laurent Louisset se serait mis à courir. Les agents lui auraient tiré dessus et il aurait reçu une balle dans son pied droit, qui se serait cassé. Blessé, il serait alors tombé à terre, dans un marécage, où les agents l'auraient abandonné sans lui fournir aucune aide. Le directeur départemental de la police sud et les différentes autorités locales et nationales auraient été informées de cet incident par une organisation de droits de l'homme. Des plaintes ont également été présentées contre plusieurs agents de police supposément impliqués.

697. **Patrick Dumé**, un étudiant âgé de 22 ans, membre du mouvement Jeunes révolutionnaires de Saint-Louis, aurait été arrêté chez lui, à Saint-Louis du Sud, le 14 août 2003 par des agents de l'UDMO. Il aurait reçu des gifles et des coups de poing, de bâton et de

crosse de fusil, en particulier au ventre. Il aurait également été frappé contre le sol. Il aurait été emmené au commissariat de Saint-Louis, où il aurait passé sept jours en garde à vue durant lesquels il aurait été privé de nourriture, de soins et de visites. En raison du traitement qu'il aurait reçu au cours de son arrestation et sa détention, il aurait présenté plusieurs blessures et lésions. Le directeur départemental de la police Sud et différentes autorités locales et nationales auraient été informés de cet incident par une organisation des droits de l'homme. Des plaintes ont également été présentées contre plusieurs agents de police supposément impliqués.

698. **J. F.** et **J. F.**, deux frères jumeaux de deux ans et demi, fils d'un ancien maire de la ville qui aurait été soupçonné d'encourager le Mouvement révolutionnaire de Saint-Louis du Sud, auraient perdu connaissance lorsque des agents de l'UDMO auraient lancé du gaz et tiré répétitivement des coups de feu à l'intérieur de leur maison au centre la ville de Saint-Louis du Sud, lors d'une opération policière dans la ville le 4 septembre 2003. Le directeur départemental de la police Sud et différentes autorités locales et nationales auraient été informées de cet incident par une organisation des droits de l'homme. Des plaintes ont également été présentées contre plusieurs agents de police supposément impliqués.

699. **Juliana Pricien**, une femme âgée de 21 ans enceinte de quatre mois, aurait été blessée le 4 septembre 2003 lorsque des agents de l'UDMO seraient entrés chez elle, à Fond Palmiste, troisième section communale de Saint-Louis du Sud, et lui auraient ordonné de se coucher par terre en la menaçant avec une arme. Prise de peur, elle se serait mise à courir. Les agents de police auraient alors tiré des coups de feu. L'un d'eux lui aurait tiré une pierre qui l'aurait blessée à la ceinture et fait tomber par terre. Elle aurait par la suite été transportée à un hôpital où elle serait restée une semaine. Le directeur départemental de la police Sud et différentes autorités locales et nationales auraient été informées de cet incident par une organisation des droits de l'homme. Des plaintes ont également été présentées contre plusieurs agents de police supposément impliqués.

700. **Reginald Destin**, un maçon de 25 ans, aurait été passé à tabac le 4 septembre 2003 dans le chantier où il travaillait à Saint-Louis du Sud par des agents de l'UDMO affectés au commissariat des Cayes. Il aurait reçu des gifles, des coups de bâton et de crosse de fusil et des coups de pied, en particulier sur la poitrine et ses organes génitaux. Il aurait été couché par terre et menacé de mort. Lorsqu'il aurait expliqué aux agents qu'il n'était pas de la région, ils lui auraient ordonné de partir en courant. En raison des coups reçus lors de cet incident, il aurait eu des lésions aux bras, aux jambes et au dos, le visage enflammé et il aurait uriné du sang. Le directeur départemental de la police Sud et différentes autorités locales et nationales auraient été informées de cet incident par une organisation des droits de l'homme. Des plaintes ont également été présentées contre plusieurs agents de police supposément impliqués.

701. **Christophe Camille**, âgé de 25 ans, aurait été battu à coups de bâton, coups de pied, coups de crosse et coups de poing, jeté par terre et piétiné par des agents de l'UDMO affectés au commissariat des Cayes qui auraient pénétré chez lui à Saint-Louis le 4 septembre 2003. Il aurait été forcé de se coucher par terre sur une route en asphalte et sous le soleil, torse nu et menotté, pendant plus d'une heure. Lorsque sa mère s'est rendue aux commissariats de Saint-Louis du Sud et d'Aquin, personne n'aurait été en mesure de lui dire où se trouvait son fils. Elle n'aurait pu le retrouver que deux jours plus tard au commissariat des Cayes. Il y aurait été

privé d'eau et de nourriture lors de sa garde à vue. Le traitement reçu au cours de son arrestation et de sa garde à vue aurait entraîné des lésions sur tout son corps et des écorchures sur les bras ainsi que des hémorragies à la bouche et aux oreilles. Le directeur départemental de la police Sud et différentes autorités locales et nationales auraient été informées de cet incident par une organisation des droits de l'homme. Des plaintes ont également été présentées contre plusieurs agents de police supposément impliqués.

702. **Nesly Numa**, un étudiant de sociologie à la faculté des Sciences humaines aurait été arrêté par des agents de police le 4 octobre 2003 dans le quartier de Delmas 33. Les agents l'auraient forcé à monter dans un véhicule et l'auraient roué de coups tout en lui reprochant d'être impliqué dans des mouvements antigouvernementaux et en l'interrogeant sur d'autres camarades. Il aurait été conduit à un commissariat où il aurait été sévèrement giflé et battu sur la plante des pieds. Il aurait été contraint de signer des documents sans pouvoir en lire le contenu et remis en liberté le 5 octobre 2003.

703. **J. L.**, un garçon des rues âgé de 16 ans, aurait été arrêté et battu par des agents du commissariat de Port-au-Prince, le 14 octobre 2003. Il aurait aussi été soumis à des morsures de chien. Le Fonds des Nations Unies pour l'enfance (UNICEF) serait intervenu auprès des autorités en relation avec ce cas.

704. **Jean Wilson Coli**, un homme âgé de 21 ans, domicilié à Brefette, près de la ville des Cayes, aurait été arrêté le 8 novembre 2003 par un attaché de police (milice) affecté au commissariat des Cayes et dont le nom est connu du Rapporteur spécial. L'agent de police se serait rendu à Brefette pour arrêter un autre homme. Ne pouvant pas le localiser, il aurait alors arrêté la compagne de l'homme recherché. Jean Wilson Coli, qui se trouvait au même endroit que celle-ci, aurait protesté contre cet acte. Il aurait été arrêté deux heures plus tard par le même attaché de police. Lors de son arrestation, Jean Wilson Coli aurait reçu des coups de poing et de bâton, surtout au niveau du ventre, et des gifles. Il aurait par la suite été conduit au commissariat des Cayes, où il serait resté quatre jours. Il aurait été remis en liberté le 12 novembre 2003 après être comparu devant un tribunal. Ce même jour, l'attaché de police qui l'avait arrêté une première fois, accompagné de deux agents de police dont les noms sont connus du Rapporteur spécial, se serait rendu chez lui et aurait intimidé sa mère dans le but de le retrouver. Par ailleurs, d'après les renseignements reçus, le traitement supposément infligé à Jean Wilson Coli lors de sa détention lui aurait laissé des séquelles et aurait affecté son état de santé.

705. **Bertin Registre**, un homme âgé de 22 ans, domicilié à Brefette, près de la ville des Cayes, aurait été arrêté le 12 novembre 2003 par un attaché de police (milice) affecté au commissariat des Cayes et dont le nom est connu du Rapporteur spécial, accompagné d'agents de police de ce même commissariat. Les policiers se seraient rendus à Brefette pour arrêter des supposés détenteurs d'armes illégales. Au cours de son arrestation, Bertin Registre aurait reçu des coups de bâton et de pied et des gifles. Il aurait été forcé de se coucher dans un camion à plat ventre et sans pouvoir lever la tête et emmené au commissariat des Cayes. Au commissariat il aurait été intimidé et menacé d'être soumis à 90 coups de bâton. Il aurait finalement été remis en liberté par un agent qui lui aurait ordonné de courir. Le traitement reçu au cours de son arrestation et sa détention aurait affecté son état de santé.

706. **Bernardette Isma Joseph**, une femme commerçante âgée de 37 ans domiciliée à Massé, près de la ville des Cayes, aurait été agressée le 19 novembre 2003 au marché public Le Relais des Cayes par un inspecteur de la mairie des Cayes. Ce dernier l'aurait giflée, lui aurait donné des coups de pied et de chaise et, d'un coup de poing, lui aurait arraché une dent. Cet incident se serait produit lorsque l'inspecteur aurait ordonné à une autre commerçante du marché de déplacer sa place initiale dans le but d'y mettre quelqu'un d'autre. Bernardette Isma Joseph aurait alors réagi et protesté contre cet ordre.

707. Par lettre en date du 6 avril 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a informé le Gouvernement qu'il avait reçu des renseignements concernant **Duckens Dorsainvil**. Soupçonné d'être impliqué dans un vol de véhicule, il aurait été arrêté par la police le 4 juin 2003 à Butte Boyer. Le lendemain, des agents de police lui auraient assené des coups à la tête, ce qui aurait provoqué son décès.

Honduras

708. Por carta de fecha 8 de abril de 2004, el Relator Especial notificó al Gobierno que había recibido información sobre **D. R. S. F.**, un menor de 16 años de edad, quien habría sido detenido el 16 de mayo de 2001 (véase también párr. 720 *infra*). Cuando su madre habría ido a buscarlo a la posta de La Trinidad, Comayagüela, un agente de policía habría negado que su hijo estuviera ahí. Sin embargo, el menor habría oído la voz de su madre y la habría llamado. Se alega que en esa ocasión el policía le habría dicho que cada vez que fuera necesario lo iba a detener y que iba a llegar un momento en que lo mataría. En junio de 2001 el menor habría sido nuevamente detenido pero la policía también lo habría negado. Testigos habrían indicado que el agente que le hostigaba lo habría enviado a otra posta policial. El menor habría sido detenido nuevamente en septiembre de 2001 por el mismo agente y remitido a la quinta estación. En esta ocasión habría sido golpeado. Habría puesto una denuncia por tortura. El 14 de febrero de 2002 habría sido detenido otra vez por la policía de la posta de La Trinidad y remitido a la antigua posta de hacienda y posteriormente a la Dirección General de Investigación Criminal (DGIC) para que fuera trasladado al Juzgado de Menores. Habría sido golpeado por los policías de La Trinidad. Habría sido liberado el 16 de febrero de 2002. El menor habría sido hallado muerto, con señales de haber sido ejecutado sumariamente, el 17 de febrero de 2002 en Colonia La Trinidad.

709. Por carta de fecha 28 de mayo de 2004, el Gobierno proporcionó información sobre el caso del menor. Según las investigaciones realizadas, el día de su muerte fue interceptado por varios integrantes de la pandilla MS. Fue trasladado hasta la Colonia Trinidad, donde fue asesinado en represalia por ser parte de una pandilla rival y haber participado en supuestos homicidios perpetrados contra miembros de la pandilla MS. Tras identificar a las responsables de este hecho, la posible participación de autoridades policiales en la muerte de D. R. S. F. fue descartada.

710. Por carta de fecha 15 de julio de 2004, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, notificó al Gobierno que recibió información sobre **J. M. A. M.**, un menor de 17 años, y **D. O. M.**, un menor de 16 años, ambos de la Colonia Municipal de San Pedro Sula.

Los dos menores habrían sido detenidos el 14 de junio de 2004 y conducidos a un lugar conocido como el Rancho El Coco. Allí habrían sido alcanzados por otra patrulla de policía y tres miembros de una unidad militar de elite conocida como “las Cobras”. D. O. M. habría sido golpeado y le habrían cortado las manos. Habría fallecido de una hemorragia debida a la amputación de sus manos. J. M. A. M. habría sido golpeado y violado. Seguidamente le habrían disparado mortalmente. La Unidad de investigación de muerte de menores de San Pedro Sula habría realizado una investigación y la Fiscalía Especial de Derechos Humanos de San Pedro Sula habría presentado una acusación por los delitos de asesinato y abuso de autoridad. Se habría dictado un auto de procesamiento y detención judicial contra dos inspectores de la Policía Nacional identificados por varios testigos. Cinco militares habrían sido destituidos de sus funciones.

711. Por carta de fecha 16 de septiembre de 2004, el Relator Especial, juntamente con la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, notificó al Gobierno que recibió información sobre los casos siguientes:

712. **José Luis Cruz**, 38 años, una travestí conocida como **Zafiro**, 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 DGIC. Desde que habría presentado su denuncia, Zafiro habría sido objeto de amenazas por parte de miembros de la policía.

713. **Santos Rafael Zúñiga**, una travestí de 20 años y profesional del sexo, 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 puntapiés 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.

714. **Edwin Oliver Alonzo G.**, 21 años, una travestí conocida como **Marjorie**, 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 culatas 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.

715. **Mainor Misael Mairera**, 20 años, una travestí conocida también como **Samanta**, 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 tarde, 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.

716. **José Richard Figueroa Rodríguez**, 25 años, travestí y trabajadora comercial del sexo, 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.

717. **Yaros Lat Martínez Lara**, 23 años, una travestí conocida como **Paulina**, 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, y les habrían 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.

718. **Oscar Armando Zelaya**, 34 años, una travestí conocida como **Leonela**, 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 homófobas.

719. Por carta de fecha 20 de septiembre de 2004, el Relator Especial, juntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, notificó al Gobierno que recibió información, según la cual **105 jóvenes reclusos del Centro Penal de San Pedro Sula** habrían fallecido a causa de un incendio ocurrido el 17 de mayo de 2004 en el centro. Otros 27 jóvenes habrían resultado heridos presentando quemaduras de primer a tercer grado. Las víctimas del incendio eran todos miembros de la mara Salvatrucha. Muchos de los jóvenes no habían sido condenados por ningún crimen. Se alega que durante el incendio los jóvenes permanecieron encerrados y que no se les dejó salir de la celda 19. Los Relatores Especiales han sido informados de que en el momento del incendio, 182 personas se encontraban recluidas en una celda con capacidad para albergar 50 personas. Se alega igualmente que el Centro Penal albergaba una población de 2200 personas a pesar de haber sido construído para recluir a 800 personas. El Centro no contaría con un plan de emergencia

contra incendios y las medidas de seguridad serían mínimas. Los Relatores Especiales también han sido informados de que 69 reclusos de la Granja Penal de El Porvenir, la mayoría de ellas miembros de maras, habrían fallecido a causa de un incendio el 5 de abril de 2003.

Llamamientos urgentes

720. El 19 de abril de 2004, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Representante Especial del Secretario General para los defensores de los derechos humanos sobre la situación de **Sara Sauceda Flores**, cuyo hijo, D. R. S. F., habría sido detenido y sometido a malos tratos en varias ocasiones, amenazado de muerte y ejecutado sumariamente el 17 de febrero de 2002 en el barrio de Colonia La Trinidad, en Comayagüela, en la ciudad de Tegucigalpa (véase también párr. 708 *supra*). Desde que habría interpuesto una denuncia por las repetidas detenciones y malos tratos y la muerte de su hijo, Sara Sauceda Flores habría sido repetidamente intimidada y amenazada, incluso de muerte. Habría denunciado todas las amenazas y los actos de intimidación al Ministerio de Seguridad Pública de Honduras.

721. El 4 de noviembre de 2004, el Relator Especial envió un llamamiento urgente juntamente con Representante Especial del Secretario General para los defensores de los derechos humanos sobre la situación de **Centro de Prevención, Tratamiento y Rehabilitación de las Victimas de la Tortura y sus Familiares** (CPTRT), organización no-gubernamental de Honduras. Según las alegaciones recibidas: Entre el 26 y el 27 de octubre de 2004, las oficinas del CPTRT fueron destruidas. Los archivos y papeles fueron revueltos, en las paredes se escribieron amenazas de muerte contra el personal, y en el piso de la oficina del director se colocaron varios libros dispuestos en forma de cruz . Después de un incidente similar en mayo de 2003, la organización tuvo que cambiarse a sus locales actuales. Según los informes, el ataque está relacionado con el apoyo de las organizaciones a una campaña reciente sobre la independencia del sistema judicial del Ministerio de Seguridad.

Seguimiento de comunicaciones transmitidas previamente

722. Por carta de 19 de diciembre de 2003, el Gobierno respondió a un llamamiento urgente enviado el 8 de octubre de 2003 juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Representante Especial del Secretario General para los defensores de los derechos humanos, en relación con la situación de **Marcelino Miranda**, **Leonardo Miranda** y **Marcelino Martínez Espinal** (E/CN.4/2004/56/Add.1, párr. 682). El Gobierno indicó que el 23 de septiembre se celebró una audiencia inicial en contra de 28 personas por supuestos delitos de abuso de autoridad, torturas, lesiones y daños en perjuicio de Marcelino y Leonardo Miranda y la comunidad indígena de Planes de Montaña Verde. Se ordenó el sobreseimiento definitivo a favor de los imputados. El 29 de setiembre de 2003, la Fiscalía Especial de Etnias y Patrimonio Cultural interpuso recurso de reposición y subsidiaria apelación ante la Corte de Apelaciones de Santa Rosa de Copan. El 29 de octubre, la Corte de Apelaciones reformó el sobreseimiento definitivo dictado por el Juzgado de Primera Instancia y ordenó que el mismo se decretase de manera provisional. Respecto a las amenazas en contra del abogado Marcelino Martínez, el Gobierno indicó que éste interpuso una denuncia el 16 de octubre de 2004. La Fiscalía Local

de Gracias Lempira emitió auto de requerimiento de investigación el 28 de octubre de 2004 a la Dirección General de Investigación Criminal. La investigación seguía en curso.

India

723. By letter dated 26 March 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning:

724. **Deben Sardar**, a 46-year-old labourer, Sardarpara, Arabpur, Nadia district, West Bengal. On 12 October 2003, he was arrested with four of his friends by the Hogalberia police while they were playing cards in a public place for causing a public nuisance. They were not informed of the reasons for their arrest or the charges against them. Deben Sardar's family was notified of his arrest only the next day when they were told that he was taken to the hospital at about 9.45 a.m.. He died at around 1.45 p.m.. The police claimed that he developed an illness while in custody which caused his death. However, Deben Sardar had no history of serious ailments prior to his arrest. His body was examined by the Sub-Divisional Officer of Tehatta who found at least two external injuries on his abdomen that had not been there prior to his arrest. No effective action had been taken by the police concerning this matter, and the post mortem report was to be released.

725. **Ramesh Rajendra**, a 20-year-old construction worker, Melatheru, Kalvettu village, Tamil Nadu. On 13 March 2003, he was taken with four other detainees to the Trichy Central Prison after a hearing at the Magistrate Court, Jayamkondam. They were forced to stand in a corridor facing the office of the Prison Jailor. Ramesh Rajendra was feeling weak and could not stand, so he sat down on the floor. The Prison Deputy Jailor hit him on the right thigh, accusing him of faking an illness, and a prison guard kicked him on the chest, making him spit blood. The beating went on for half an hour until his unconscious body was dragged away and thrown into a cell. He later died. On the morning of 14 March 2003, his body was transported to Trichy Governmental Hospital by unidentified officers. On 15 March 2003, both his wife and his father reportedly lodged a complaint to the Jayamkondam Police Station. The competent local authority refused to receive the complaint, though an unidentified plain clothes police officer offered to receive it before dismissing them. No investigation was conducted by the authorities and no criminal proceeding was ever initiated against persons responsible for his death.

726. By letter dated 16 April 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning Mr**. Hafeel**, aged 24. On 24 February 2004, he was arrested and taken into custody by the sub-inspector of police of the Perumbadappu Police Station, Malappuram district, Kerala. He was tortured to death within two hours of his arrest and later died while he was transferred from the Government Hospital, Vadakkekadu, to the Government Hospital, Kunnumkulam. Mr. Hafeel was a healthy person and had no history of serious ailments prior to his arrest. The police claimed that the victim died following severe injuries sustained during a fight with several Hindus at a festival site, and not because of police torture. Currently four police constables from the Armed Reserve Camp, Malappuram, have been suspended from service in relation to this case. The State crime branch took the case for investigation and the Crime Branch Deputy Inspector General

is in charge of the investigation. No case has yet been registered against the perpetrators, and the sub-inspector of police allegedly responsible for the death is obstructing access to the case records at the police station.

727. By letter dated 21 July 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary execution, the Special Rapporteur notified the Government that he had received allegations concerning **Soumyendu Mondal**, aged 32. On 7 July 2004 at midnight, he was arrested without charges at his house by the police of Debra Police Station, Midnapur District, West Bengal, and died the same night. Several injuries were found all over his body. On 8 July 2004, the police informed his family that Mr. Mondal had died of a heart attack. His family filed a complaint at the local criminal court, asking for an inquiry into his death in custody. On 9 July 2004, in order to destroy evidence, the police attempted to burn the body but local villagers intervened and preserved it under ground. To justify the injuries, the superintendent of police claimed that Mr. Mondal had jumped out from the police jeep to escape from police custody on 7 July 2004. However, he did not indicate why Mr. Mondal was not produced before the local Magistrate Court after the arrest. The post-mortem reports were not made available to Mr. Mondal's family. The police are threatening his family to remain silent about the entire incident.

728. By letter dated 4 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

729. **Baburaj P. K.**, a 44-year-old sawmill owner in Koonammuchi, Kerala. On 20 April 2004, at 10am, two plain-clothes policemen of Guruvayoor Police Station entered Baburaj P. K.'s shop. In front of his employees, one of the policemen (whose name is known to the Special Rapporteur) started to slap Baburaj P. K. in the face, punched his mouth, and kicked him in the abdomen. Baburaj P. K. sustained a bleeding nose and mouth, lost two teeth, and fell down unconscious. More police officers arrived and he was arrested. He was taken to Pavaratty Police Station and put into a room. Several policemen, including the sub-inspector, forced Baburaj P. K. to stand up in the middle of the room, and he was punched and kicked by those present for at least ten minutes before he collapsed on the floor. Baburaj P. K. was then taken by police car to Guruvayoor Police Station, where he was locked up and charged with obstruction under article 353 of the Penal Code, which is not subject to bail. He was taken unconscious to the Government Hospital, Chavakkad, where he was immediately referred to the Medical College Hospital, Thrissur, because of the seriousness of his injuries. Instead of taking him to the hospital, Baburaj P. K. was returned to the police station. At 7 p.m., Baburaj P. K. was produced before the presiding officer of the District Consumer Forum, and released on bail. He was then taken by his family to the Royal Hospital, Kunnamkulam. Despite a complaint lodged by Baburaj P. K. against the policemen, no investigation has been made into this case.

730. **S S**, aged 14, Mohanpur, West Bengal. On 16 October 2003, a group of policemen came to his home searching for his brother. SS was arrested, verbally abused, and taken by jeep to Magrahat Police Station, South 24 Parganas District. At the lock-up, he was stripped. The policemen tied a brick to one end of a rope, and his penis and testicles to the other. S. S. was beaten with sticks and fists. As a result of the torture, he suffers pain in his penis and abdomen and urinates with difficulty. He was only brought before a court on 20 October 2003, and released on bail. No investigation has been carried out.

731. **Satya Pal**, Hayatpur, Hooghly, West Bengal. He is still an Under Trial Prisoner since he was arrested 25 years ago, and despite this status, he has not been brought before a court for the last 12 years. While in detention, Satya Pal, who is reported to be mentally ill, has not received appropriate treatment. On 24 July 1979, he was arrested in connection with a murder inquiry and detained at Khanakul Police Station, later remanded by the Sub-divisional Judicial Magistrate to Hooghly District Jail, and transferred to the Dum Dum Central Jail 15 months later, where he is currently detained and awaiting trial.

732. **Kolavan**, aged 60. On 8 February 2004, he went to Thrithala Police Station, Kerala, in connection with a complaint he had lodged against his brother. The sub-inspector asked Mr. Kolavan to withdraw the complaint, and struck him on the abdomen when he refused. Despite further threats from the sub-inspector, Mr. Kolavan did not yield, and was slapped on both his ears. He fell unconscious and when he awoke he was unable to stand or hear. The sub-inspector had obtained Mr. Kolavan's fingerprints on blank sheets of paper by force. Two days after his release, he was admitted to the Government Hospital, Pattambi, with pain in his ears and abdomen, and symptoms of an infection of the urinary tract. He was transferred to the Nila Hospital for ear surgery. The hospital authorities informed the Circle Inspector of Police regarding his injuries and issued a certificate mentioning that the injuries were due to torture.

733. **Jinesh**, aged 32, Balusserry, Calicut, Kerala. On 16 February 2004, he was arrested by the Balussery police in connection with a charge of possessing illegal liquor. Mr. Jinesh was produced before a magistrate, who remanded him to custody, and he was taken to the District Sub-Jail, Calicut. On 19 April, the authorities denied his mother's request to visit. The next day, a policeman from the Balussery station informed Mr. Jinesh's mother that he had died in custody. When the family went to collect his body at the Beach Hospital, Calicut, the staff indicated that he had been brought in at 7.20 a.m. that morning. A post-mortem was conducted at the Calicut Government Medical College. There were injuries all over his body, including deep wounds on his face, on the back of his neck, hands and legs, and injuries to both eyes. An inquest was made by the Divisional Revenue Officer.

734. **Mohammed Siddique**, a lab technician, Malappuram, Kerala. On 15 January 2004 at 5 a.m. a group of policemen from Malappuram Police Station came to his house and arrested him. At the police station, Mohammed Siddique was assaulted and sustained internal injuries. The same day, Mohammed Siddique's mother filed a complaint with the District Collector, as well as with the Superintendent of Police, but no action was taken. The next day, she filed a claim in the High Court of Kerala to have him produced in court, and the police brought Mohammed Siddique to the Malappuram Government Hospital for an examination. The doctor certified that his injuries were caused by torture. He was produced before the Judicial First Class Magistrate at midnight and remanded in custody. On 19 January, the High Court ordered Mohammed Siddique to be produced before the court and for the Malappuram Deputy Medical Officer to report on the detainee's condition. The police filed an application for an extension of the remand, and finally he was produced before the court on 21 January. The court ordered Mohammed Siddique to be released on a bond and the Superintendent of Police to carry out an investigation. It also ordered the Manjeri District Sessions judge to conduct an inquiry. No action has been taken yet against the policemen involved.

735. **Sri Tarun Mallick**, aged 45, Srirampur, Hooghly district, West Bengal. On 10 April 2004, at around 5 p.m., several policemen came to his house and without warning he was dragged out of his bedroom, verbally abused, kicked and beaten with a wooden stick. Sri Tarun Mallick was then taken to the home of the sub-divisional police officer in Srirampur (whose name is known to the Special Rapporteur), where several policemen beat him again. The police took him back to his village, beating him on the way. At the village, Sri Tarun Mallick was tied with a rope, beaten with sticks and kicked by the policemen in public. He was forced to hold his ears and repeatedly stand and squat. He was taken to Srirampur Police Station and placed in the lock-up. On 11 April, Sri Tarun Mallick was produced in court and released on bail. Friends took him to the Walsh Hospital for treatment. On 15 April, Sri Tarun Mallick lodged a complaint with the Superintendent of Police of Hooghly against the concerned police officers.

736. **Kamal Sharma**, a 25-year-old security guard, Jangal Basti, Darjeeling district, West Bengal. On 6 February 2004, he was arrested by policemen of Fansideoa Police Station, Darjeeling district, in connection with a theft. He was not produced before the Sub-Divisional Judicial Magistrate, Silguri, until 9 February, and was remanded in custody for seven days. Kamal Sharma was placed in the lock-up of Fansideoa Police Station, together with another person. At 8 p.m. he was found in his cell, hanging by a rope made from a rug. He was taken to Fansideoa Hospital where he was declared dead, and the post-mortem examination was conducted at the North Bengal Medical College and Hospital. By order of the state government, neither the inquest nor the post-mortem reports have been made public, but his mother and sister reported having seen injuries on the victim's body.

737. **Khemala**, a 35-year-old member of the Adivasi Mukti Sanhatana, Sendhawa, from the village of Gumdiya Khurd, Niwali, Badwani district, Madhya Pradesh. On 14 June 2003, he was arrested at his home in connection with a theft. At the police station, the policemen handcuffed and beat Mr. Khemala in front of other detainees, including his brother. Mr. Khemala vomited blood, and when his brother attempted to give him water, the local sub-divisional officer kicked him in the stomach. Soon afterwards, Mr. Khemala fell unconscious and was taken to the local hospital and later to Badwani Government Hospital, where he was pronounced dead upon arrival. The police released the other detainees who had witnessed the beating, and ordered them not to return to the area for three or four months.

738. **Shelia Gonmei**, aged 26, and **Akham Gonmei**, aged 48, both of Mahakabuikhul, Namching, Senapati district, Manipur. On 26 September 2003, there was a village protest against the takeover of land by the Government of Manipur for the creation of a firing range for the Assam Rifles. Policemen of Imphal West Police Station beat the two women protesters, who belong to the indigenous Rongmei community. Sheila Gonmei sustained a bleeding nose and bruises on both calves, and Akham Gonmei sustained bruises on both calves.

739. **Refugees from Myanmar and asylum-seekers**. On 12 November 2003, riot police used water cannons, electric batons and canes to forcibly disperse a group of 500 nationals of Myanmar, many already recognized as refugees by the United Nations High Commissioner for Refugees (UNHCR), who were staging a protest outside the UNHCR office in New Delhi. At least 25 of the demonstrators were injured. Many had sustained severe injuries, including head and chest injuries, bruised backs and legs, and broken bones. The police officers

detained several hundred protesters at four different police stations. Most of them were released that night, but 24 protesters were sent to Tihal Central Jail and charged with rioting and obstructing the police. The New Delhi police commissioner declared a 30-day curfew, effective 12 November, in order to prohibit any gathering within 200 metres of the UNHCR office. On 13 November, after more than 100 protesters gathered again in front of the UNHCR office, police officers arrested another 20 persons and sent them to Tihal Jail.

740. **Amit**, aged 18, and **Kulwant**, aged 19, and **four other persons** living in Dakshinipuri colony, New Delhi. On 15 February 2004, around 10.30 a.m., when Amit and Kulwant entered the Greater Kailash colony on their way to work, a policeman in a parked police car beckoned to them and asked them to get in. Amit and Kulwant were taken to Chittaranjan Park Police Station, where four other persons from their neighbourhood were being held. Two policemen ordered them to pick up a broom, bucket and cloth and clean the police station. When Amit and Kulwant refused, the two police officers took them to a room and beat them. The remaining four persons cleaned the police station out of fear. Amit and Kulwant were released at 3 p.m., when their employer came and pleaded for their release.

741. **R. M.**, aged 17, of Rampur village, West Bengal. On 27 January 2004, the Officer-in-Charge of Sandeshkhali Police Station (whose name is known to the Special Rapporteur) was transporting a wounded man back to the police station. On the way, he detained R. M., a bystander watching the police convoy pass. He was beaten and taken without a memo of arrest. When he came to appeal for his release, the boy's father was beaten as well. R. M. was detained until 7 April 2004, when he was released on bail. However, the charges against him are still pending in the courts.

742. Concerning the following persons from Vittukatti, Thiruthuraipoondi Taluk, Thiruvarur district,Tamil Nadu: **Mohan Subbaiah**, aged 39, **Natarajan Nagooran**, a 30-year-old labourer, **Ravi Dhanikodi**, a 39-year-old labourer, **Vedanayagam Sivasami**, a 28-year-old mechanic, **Jayalakshmi Kalidas**, aged 30, **Tamilselvi Govindaraj**, aged 39, **Baskaran Kannaiyan**, aged 36, and **Sasikumar Damodaran**, a 26-year-old electrician and plumber. In May 2003, the above-mentioned persons were detained for questioning in relation to a murder investigation, and tortured by police officers from the Thirukalar Police Station and the Thiruthuraipoondi Police Station, as well as the Thiruthuraipoondi All Women's Police Station. In particular, the police officers (whose names are known to the Special Rapporteur) included deputy superintendents of police, inspectors, and sub-inspectors.

743. During his detention at Thirukalar Police Station from 9 May 2003 onward, Mohan Subbaiah was stripped naked and beaten with "lathis" (batons) on his elbows, knees and back. He was also slapped, punched and kicked. He sustained abrasions on the left side of his chest and over his right forearm. No visits were permitted during his six-day detention.

744. During his detention at Thiruthuraipoondi Police Station and later at Thirukalar Police Station from 10 May 2003, onward, Natarajan Nagooran was beaten with lathis on his back, buttocks and hands. During the first night of his detention he was forced to drink the urine of the deputy superintendents. The following day, the victim was forced to perform oral sex on another detainee and to kneel down, naked, for the entire night. During his detention he was verbally abused, punched in the face, had a needle inserted into a finger, his fingers were pulled backwards, his head was banged against a wall, and he was threatened with a gun.

Natarajan Nagooran sustained abrasions over his left forearm and on the right side of his chest. No visits were permitted during his five-day detention.

745. During his detention at Thiruthuraipoondi Police Station from 10 May 2003 onward, Ravi Dhanikodi was verbally abused and repeatedly punched and hit with lathis on his face, shoulders and thighs. On the night of 11 May, he was stripped naked and hit and punched several times on his face and body. Ravi Dhanikodi was forced to stand with his knees bent and was continuously hit with lathis on his knees until he lost consciousness. When he regained consciousness, Ravi Dhanikodi was forced to sit against a wall, his legs apart, and two police officers stamped on his legs. On 12 May, Ravi Dhanikodi was again repeatedly hit with lathis below his hips, punched on his face and was then forced to perform oral sex and masturbate another detainee. Ravi Dhanikodi sustained abrasions on his left thumb and a scar on his right thigh. No visits were permitted during his five-day detention.

746. During his detention at Thiruthuraipoondi Police Station and later at Thirukalar Police Station from 10 May 2003 onward, Baskaran Kannaiyan was beaten with lathis on his hands, legs, knees, on his scrotum and on the soles of his feet. The victim was also forced to perform oral sex on the deputy superintendent and on another detainee. Other forms of ill-treatment included being verbally abused, kicked, and threatened with a gun. He sustained abrasions on his left forearm and a scar on his left thigh. No visits were permitted during his six-day detention.

747. During his detention at the Thiruthuraipoondi Police Station and later at Thirukalar Police Station from 10 May 2003 onward, Vedanayagam Sivasami was subject to beatings at regular intervals, and sustained abrasions on the right side of his abdomen. No visits were permitted during his five-day detention.

748. During his detention at Thiruthuraipoondi Police Station and later at Thirukalar Police Station from 11 May 2003 onward, Sasikumar Damodaran was slapped on the cheek and threatened with beatings. On 12 May, Sasikumar Damodaran was stripped, forced to kneel down, and was beaten and kicked for more than two hours. On 13 May, he was stripped, slapped on the cheek and beaten. Sasikumar Damodaran suffered scars on his left eyebrow and his left forearm. No visits were permitted during his five-day detention.

749. During her detention at the Thiruthuraipoondi Police Station and later at the Thiruthuraipoondi All Women's Police Station from 11 May 2003 onward, Jayalakshmi Kalidas was beaten with lathis on her arms and thighs. She sustained abrasions over the right side of her neck. She was allowed to receive a visit from a lawyer on 12 May.

750. During her detention at the Thiruthuraipoondi All Women's Police Station from 12 May 2003 onward, Tamilselvi Govindaraj was beaten, slapped on the cheek, and had her ears pulled. She was forced to hold on to a pillar and was beaten on her thighs, legs and hands, threatened and verbally abused. Tamilselvi Govindaraj sustained abrasions on her left forearm and on the left side of the chest, and suffers from psychological problems and nightmares stemming from the detention. Her mother and a family friend were allowed to see her on 13 May around 11 p.m.. On 22 May, a complaint was lodged before the State Human Rights Commission, and on 26 August hearings were held. The results of the Commission's investigation have not yet been disclosed. On 23 May, a complaint was sent to the Tamil

Nadu State Commission for Women. In this connection, on 25 September, the Revenue District Officer of Mannargudi questioned Tamilselvi Govindaraj. The results of the investigation have not yet been disclosed.

751. Complaints were also submitted in relation to the other cases to the State Human Rights Commission and the District Collector of Thiruvarur, in May and August respectively. However, the findings have not been disclosed yet. No investigations have been carried out following a petition sent on 6 August to the Superintendent of Police of the Thiruvarur District.

752. **Vijayalakshmi Ravichandran**, a 24-year-old employee of a textile shop, Nagar Dharmapuri, Dharmapuri Taluk, Dharmapuri district, Tamil Nadu. From 7 to 11 June 2003, she was held in a locked room at the house of a police officer of Dharmapuri Police Station (whose name is known to the Special Rapporteur) because she was suspected of stealing jewellery from his house. There, Vijayalakshmi Ravichandran was hit with a club and a leather belt, pierced with needles on her fingertips, and her hair was cut. She was brought to the Dharmapuri Police Station on 14 and 15 June, and released in the evenings. At the police station, Vijayalakshmi Ravichandran was beaten on her back, thighs and hips by two policemen and by the sub-inspector of police (whose names are known to the Special Rapporteur), to make her sign a confession. According to her father, Vijayalakshmi Ravichandran had showed him a swollen hand as a result of the beating. On 17 June, at 11 a.m., Vijayalakshmi Ravichandran set fire to herself and her infant daughter. At Dharmapuri Government Hospital, where she had been taken to receive treatment, she filed a statement with the inspector of police. A First Information Report was registered against the two policemen, who were subsequently arrested and released on bail pending the investigation. Vijayalakshmi Ravichandran died of her burns 13 days later. To date, the results of the investigation have not yet been disclosed. On 15 September 2003, a complaint was submitted on behalf of Vijayalakshmi Ravichandran to the State Human Rights Commission.

753. **V. L. Joy**, a 32-year-old owner of a meat shop in Kurumbilavu village, Pazhuvil, Thrissur District, Kerala. At 8 p.m. on 20 May 2002, he was taken to Anthikkadu Police Station without being given the reasons for his arrest. After 20 minutes, he was taken to the office of the sub-inspector (whose name is known to the Special Rapporteur), who beat him for about 15 minutes. Afterwards, he was thrown into a cell. At around 11 p.m., his brother came to the police station, but the police denied him access to him or any information about his arrest. At 2 a.m. on 25 May, the sub-inspector brought V. L. Joy from his cell to his office, and again started beating him until he collapsed. He was denied water and access to a toilet, and was forced to drink his own urine before being locked up. Later the same day, his brother returned. The police forced Mr. V. L. Joy to sign some papers and threatened him if he should complain to anyone about his treatment during detention. Both were informed that Mr. V. L. Joy was charged with a petty offence, and he was ordered to go pay the fine at the court. After his release, Mr. V. L. Joy was taken to the Government Hospital, Cherpu, Thrissur, for his injuries. He contested the petty case against him, and also filed a complaint against the sub-inspector. The sub-inspector had reportedly been transferred to Anthikkadu Police Station from Wadakkanchery Police Station pending his appeal against a previous conviction for the assault of a prisoner.

754. By letter dated 4 August 2004, the Special Rapporteur notified the Government that he received allegations concerning:

755. **Kanai Santra**, a 38-year-old electrician, Chakdaulat-Kalitala Village, Muchisma Post Office, Nodakhali Police Station, South 24 Parganas district. On 23 May 2004 around 11 a.m. Kanai Santra was arrested by officers from the Nodakhali Police Station. He was not informed of the reasons, but his family was later told that he was suspected of the theft of ornaments from a nearby temple. His case was only brought before the Sub-divisional Judicial Magistrate Court, Alipur, Kolkata two days later, on 25 May 2004. He was not physically brought before the magistrate but only the legal papers were produced, allegedly a common practice in this court. While he was in the Alipur Court lock-up, Kanai Santra was beaten unconscious with sticks, fists and kicks by the lock-up guards. When the Nodakhali policemen came to take Kanai Santra to the police station, he was still unconscious, and was sent to the Bangur Government Hospital, Jadavpur, where he died at 8.40 p.m.. On 26 May 2004, an inquest found bruises and cuts to the left side of the chest, left eye, toes of the left foot, fingers of the right hand, the left wrist, and the left knee.

756. **Sajeev**, aged 47, the owner of an automobile spare parts shop, and **Manoj**, aged 38, an auto rickshaw driver, both of Thrissur, Kerala. At around 5 p.m. on 16 May 2004, Mr. Sajeev and Mr. Manoj were going to Thrissur from the eastern suburbs on a motorbike. At Kizhakumpattukara, outside of Thrissur, they were stopped by two policemen, one of whom was identified as the traffic sub-inspector of Thrissur Traffic Police Station (whose name is known to the Special Rapporteurs). Shortly after, four policemen, including the head constable (whose name is known to the Special Rapporteurs) arrived. The head constable slapped both of Mr. Sajeev's ears simultaneously, and slapped Mr. Manoj. The two men were led away to a police car, where the policemen began to beat Mr. Sajeev. Mr. Manoj pleaded with the police to stop as Mr. Sanjeev had a heart condition. At this point the police started to beat him too. Upon arrival at the police station Mr. Sajeev died and his body was taken to the Elite Hospital, where he was pronounced dead. The medical inquest report stated that the cause of Mr. Sajeev's death was cardiac arrest. Mr. Manoj was sent to the Government Medical College, Thrissur. He was treated for injuries to his ears and has hearing difficulties. The Deputy Inspector General of Police, suspended the policemen and ordered an inquiry into the incident.

757. By letter dated 13 August 2004, the Special Rapporteur notified the Government that he received allegations concerning:

758. **Subramaniam Appadurai**, a 39-year-old bookseller and part-time cook, Subburayan Nagar, 3rd Street, Kodambakkam, Chennai, Tamil Nadu. On 29 and 30 November 2002, he was detained at K. K. Nagar Police Station, Chennai, on suspicion of involvement in the Naxalite movement. Seven police officers, including an inspector (whose name is known to the Special Rapporteur) were involved in torturing Subramaniam Appadurai. He was forced to remove his pants and shirt and sit at the base of a cement pillar. One of the policemen pulled his arms and legs backwards. He was repeatedly kicked on his arms and legs while another policeman jumped on his left thigh. Other policemen beat him with lathis on his elbows, forearms and legs. The inspector ordered Subramaniam Appadurai to stand up, jump, and shake his hands, arms, and legs simultaneously. As a result of the treatment, he was unable to sit or squat, and he sustained a fractured left hip. He was

examined and treated by a doctor at Kumaran Specialities Hospital, Chennai, on 5 December and underwent surgery for his hip the following day.

759. **Dayanandan Diraviam Nadar**, a 34-year-old grocery store manager, Vadalivilai Keezha Street, Kottar, Nagerkoil Taluk, Kanyakumari district, Tamil Nadu. On 28 March 2003 at about 12 p.m., the sub-inspector and two policemen (whose names are known to the Special Rapporteur), dragged him from his house to a place nearby. There he was stripped of his lungi, and repeatedly beaten and kicked. When Dayanandan Diraviam Nadar lost consciousness, he was taken to Kottar Police Station. He was detained there for 13 hours without access to a lawyer or family. He was beaten and kicked by the policemen on the back, arms and legs, and the sub-inspector sodomized him with a lathi. The torture was carried out as punishment for a lawsuit launched against the sub-inspector's relative by Dayanandan Diraviam Nadar. He was examined by a doctor on 29 March at Kanyakumari Medical College, Nagercoil, and was treated for three days. According to the medical report, his injuries included abrasions on his left thigh, left leg, right buttock; contusions on his arms, right thigh, left ankle; difficulty hearing in the right ear; and pain in his pubic region, palms and chest. In early April 2003, complaints were sent to the Chief Minister of Tamil Nadu, the State Human Rights Commission, the Revenue Divisional Officer, Nagercoil, and the Director General of Police, Chennai, however no investigation has been carried out.

760. **Thangam Muniyandi**, a 31-year-old hospital janitor, Pattamal Kovil Colony, Sithayankottai, Dindigul district, Tamil Nadu. On 28 April 2003 he was detained at the D1 Tiruvallikeni Police Station, Chennai, on suspicion of theft. Five police officers (including one whose name is known to the Special Rapporteur) tortured him for 10 hours. Thangam Muniyandi was forced to remove his shirt and pants and was kicked in the abdomen. He was handcuffed and forced to lie down on the floor with his legs stretched. Two policemen stamped on his thighs, while another beat the soles of his feat with a lathi. This continued over five hours, after which time two other policemen beat him with lathis on his arms, legs, back, chest and buttocks. Large sticks were inserted under his arms, which were still handcuffed, and he was lifted up and beaten on the legs with lathis. He was revived with water after he fell unconscious and was beaten again. Thangam Muniyandi was verbally abused, threatened, slapped on the cheek, had his hair pulled and was spit on. He was examined at the Government District Headquarters Hospital, Dindigul on 10 May and discharged five days later. In August 2003, complaints were sent to the National Human Rights Commission, the Commissioner of Police, the Deputy Inspector General of Police, and to the National Commission for Scheduled Caste/Scheduled Tribes, however no investigation has been carried out.

761. **Selvaraj Manickam**, a 37-year-old truck driver, South Manickapuram Majanayakkanpatti village, North Manickapuram Post, Kulithalai Taluk, Karur district, Tamil Nadu. He was arrested on 6 June 2003 and detained for two days at the Pasupathipalayam Police Station, Karur, by the sub-inspector (whose name is known to the Special Rapporteur) and the head constable in connection with the theft of a load of iron rods. The policemen verbally abused and repeatedly beat him with a lathi on his back, buttocks, hands, wrists, ankles, knees and genitals. A toenail was pulled from his left foot, and a lathi was forced into his mouth. He sustained a fractured left leg. Selvaraj Manickam was denied access to a lawyer or family during his time in detention. On 7 June, a person came to the police station to apply ointment to his body. At midnight he was taken by a policeman to a hospital in Anna

Circle, and on 8 June he was released late in the evening. He sought treatment immediately following his release, and was admitted to Karur Governmental Hospital on 13 June. A petition was filed on 13 June with the Assistant of the Collector, however no investigation has been carried out.

762. **M. V. Babu**, aged 38, Kallur village, Mukundapuram Thaluk, Thrissur, Kerala. On 30 August 2003 at 2.50 a.m., four policemen from Pudukkad Police Station arrived at his house and took him to the station in a police jeep. When M. V. Babu's wife, accompanied by a local politician and a relative, went to the police station later that day, they found him in the lock-up, wearing only his underwear, and shivering on the floor. He indicated to them that he was beaten by the police. On 31 August, he was taken to Chalakudy magistrate court, charged in relation to a police raid for illicit liquor close to his home, was denied bail and remanded for 14 days in custody at the Sub-jail, Irinjalakuda, despite his health. On 1 September, M. V. Babu's wife went to visit him, but was denied access to him. The police enquired whether he previously suffered from ill-health, to which she replied in the negative. On 2 September, she was informed that her husband was admitted to the Government Hospital, Chalakudy, and she was ordered first to go to the police station to sign some documents which she did not understand. At the hospital, she found M. V. Babu in the mortuary. The autopsy report indicated 13 injuries, including abrasions on the back of the right forearm, above the right wrist, below the right knee, below the left knee, on the left thigh, above the left wrist, the left elbow, upper left arm, and on the right side of the chest. The police said M. V. Babu was a drug addict and injured himself as a result of self-inflicted injuries in custody.

763. By letter dated 16 August 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received allegations concerning:

764. **Rajavalli Chandrasekraran**, aged 42, North Street, Thanjavur, Thanjavur District, Tamil Nadu, her daughter **Vasanthi**, and her nephew **S. Selvaraj**. In connection with complaints of harassment against policemen of the West Police Station, on 2 February 2002, the inspector of police and the head constable (whose name is known to the Special Rapporteur) entered her house in search of her. The head constable found her on the veranda of a neighbouring house and beat her on her back. He dragged her towards a vehicle by her saree, and threatened to kick her if she opened her mouth. Vasanthi was hit on her hands by the head constable when she intervened. On 24 April 2002, the sub-inspector, head constable, and two female police officers arrived at 1 a.m. with a warrant. The head constable woke her nephew, hit him and took him to the police station, ordering her to produce in the morning the anticipatory bail papers, which she claimed she had. S. Selvaraj was release 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 Rajavalli Chandrasekraran to remove the earrings worn by her daughter and her sister. When she refused, the sub-inspector and one of the policemen pulled off her saree, and forced her to sign blank pieces of paper saying that she stole the jewellery. The policemen placed gold jewellery brought from elsewhere and photographed and videotaped her with it. She was taken to Thanjavur Women's Police Station at 2 a m , taunted that this was a punishment for the complaints she had filed, and was told to stop making complaints. Rajavalli Chandrasekraran was brought before the JM I Court at 6 p m , remanded to 15 days in custody at the Trichy Central Prison and released on bail on 12 June 2002.

765. **Karuppi Sonai**, aged 45, Pazhaya Theru, Kattuparamadudi, Paramakudi Taluk, Ramanathanpuram district, Tamil Nadu. From 25 November 2002 until her death on 30 November, she was shackled at Paramakudi Town Police Station to a table, kicked and beaten with PVC pipes and lathis on her head, back, hips and legs. Karuppi Sonai was pierced with needles in 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.

766. **Thangjam Manorama**, also known as Henthoi, aged 32, Bamon Kampu, Imphal East District, Manipur. On 11 July 2004, troops of the 17 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 issued a memo of arrest signed by the General Duty of the Assam Rifles and two other personnel (whose names are known to the Special Rapporteur). According to the memo, no incriminating evidence was found with Thangjam Manorama at the time of her arrest. The family was also forced to sign some papers that 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 Thangjam Manorama was found 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 not according to the National Human Rights Commission's guidelines, and the family called for an independent post-mortem. The spokesman of 9 Sector Assam Rifles said on 11 July that Thangjam Manorama 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.

767. 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 violence against women, and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, the Special Rapporteur notified the Government that he had received allegations concerning the situation of the Manipuri indigenous communities in some of areas of Manipur. Following the news of the death of Ms. **Thangjam Manorama** (see above), 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 suffered from tear gas used by the police and one person, **Ms. Kangjam Memita**, died as a result. The Special Rapporteurs express their concern regarding the allegations of excessive use of force and intimidation by the police and other military personnel, the mass arrests of protesters, the way the arrests were carried out, as well as the basis for the charges against those detained.

768. By letter dated 17 September 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur notified the Government that he had received allegations regarding members of the Jangipara branch of the **Association for Protection of Democratic Rights** (APDR), a human rights organization in West Bengal working for the promotion of democratic rights.
On 21 August 2004, human rights defenders from the APDR who had assembled for a peaceful street meeting in Hooghly to protest alleged repression by the State were attacked by 50 or 60 local members of the Communist Party of India (CPIM). They were punched, beaten with poles, kicked and verbally abused. Although a number of people participating in the meeting rushed to a police station to seek help, none of the police officers posted nearby came to stop the violence or to arrest the perpetrators. Sri Amitadyuti Kumar, vice-president of APDR, and Gautam Munshi, treasurer of the Hooghly District Committee, were among the victims who were later treated in Walsh Hospital, Srirampur.

769. By letter dated 5 October 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations concerning:

770. A group of **500 nationals of Myanmar, c**ited in a previously transmitted communication (see above).

771. On 20 March 2004, police officials used excessive force during a march held by the Association of Parents of Disappeared Persons (APDP) in Srinagar, Jammu and Kashmir. The demonstrators were planning to present a memorandum to the United Nations Military Observers Group, calling upon the United Nations Working Group on Enforced or Involuntary Disappearances to take notice of the cases of "disappearance" in the State and to punish those responsible. The march was dispersed by the police. The participants were hit with canes and women were dragged by their hair, beaten and had their clothes ripped off. Witnessing this use of excessive force by the police on women, some passers-by and local shopkeepers started to throw stones at police officials. Several APDP members, human rights defenders as well as family and friends of the "disappeared" were arrested and taken into police custody for unlawful assembly and assault of police officers, including APDP members **Perveena Ahangar**, **Pervez Imroz**, **Bilal Mohammad Bhatt**, **Yasin Rah** and **Umtoo**. After seven hours in custody, they were released on bail.

772. By letter dated 5 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

773. **Lilabati Chowdhury**, a member of the ethnic Dalit community, Pakamati-Mohula village, Murshidabad, West Bengal. On 7 August 2004 around midnight, Lilabat Chowdhury, seven months pregnant, was beaten with batons and verbally abused by policemen of Beharampore Police Station. They came to her home in search of her husband. She was admitted to Baharampur Block Hospital, Karnasubarna, with serious injuries. She was visited by several uniformed policemen who threatened her not to speak to anyone about the incident.

774. **Raja Mondal**, South Colony, New Jalpaiguri, West Bengal. On 11 September 2004, he was arrested by officers of Silguri Police Station in connection belonging to a criminal

gang. He was not brought before the local magistrate. According to the police, he committed suicide by drinking wood polish in his cell. It is reported that access to this would be highly unusual in the lock-up.

775. By letter dated 30 November 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations concerning **Rafiq Maqbool**, a journalist with the Associated Press, and **Amin War** of the national newspaper *The Tribune*. On 25 September 2004, police beat them with rifle butts and bamboo batons while they were covering a demonstration in Srinagar. Rafiq Maqbool was beaten on his back and arm, and both men received medical treatment for their injuries. The deputy general of the local police has ordered an official inquiry into the attack on the journalists.

776. By letter dated 30 November 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning:

777. **Gulzar Ahmed Daded**, aged 21, Sangerwani, Pulwama District, Kashmir. On 25 June 2004, he was among villagers protesting against a death in custody when he was beaten unconscious by police officers. He vomited blood and was taken to the Sher-i-Kashmir Institute of Medical Science, Srinagar, where he died on 4 July 2004.

778. **Shibu**, aged 30, Karuvachadu, Aruvilamchal, Kunthipara, Idukki district, Kerala. On 11 October 2004 at 2. 30 p.m., he was arrested near Viyyur Church with two other men by police officers and taken to Thrissur Town West Police Station. On 12 October, Mr. Shibu was found dead in a filled tub in the staff washroom. It is reported that his body was covered with cuts and bruises, including on his head, ear, chest and abdomen. The police alleged that he had committed suicide. His body was taken to a nearby hospital and declared dead, and a post-mortem was carried out by a police surgeon. The family is demanding an independent investigation.

779. By letter dated 30 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

780. The inhabitants of **Chon village, Budgam**, and **Nadigam village, Shopian**, both in Pulwama district, Kashmir. On 6 May 2004, following a boycott of area elections by the villagers, personnel of the 35th Rashtriya Rifles arrived and beat the inhabitants. The troops entered the houses in Chon village and assaulted villagers, including Ms. Taja Sheikh, Ms. Zeba Sofi and Ms. Haleema Sofi. In Nadigam village, Shopian, soldiers based at the Nagisharan camp entered the home of the sisters Shagufta and Rubina Shah, assaulting them and looting their jewellery. A complaint was lodged with the State Human Rights Commission.

781. **Mohamad Amin**, Pazalpora village, Sopore, Baramullah district, Kashmir. On 23 June 2004, he was arrested on his way to Dooru High School, Sopore, by members of the army's 16th Independent Armoured Brigade and taken to Uri. On 24 June he was left at Sangrama, Sopore, suffering from serious injuries inflicted by the soldiers. He was taken to the hospital for treatment. A First Information Report was lodged at Sopore Police Station.

782. **H. A.**, aged 17, Handwara town, Kupwara district, Kashmir. On 2 July 2004, she was picked up by police from her school and interrogated and beaten for three hours. After her release, she was admitted to the hospital with lash wounds, broken bones, damaged tendons and muscles.

783. **Arif Ahmad Khan**, age d19, Arihal-Wangat, Dooru. On 9 July 2004, he was arrested by personnel of the 49th Rashtriya Rifles and taken into custody. He was beaten, sexually assaulted and released. A First Information Report was lodged at Dooru Police Station.

784. **Sharavanan**, aged 24, a labourer belonging to the Dalit community, Valiyavattom, Njarackal, Ernakulam district, Kerala. On 22 September 2004, he was arrested by two policemen from Njarackal Police Station in relation to a theft inquiry. He was interrogated by the sub-inspector (whose name is known to the Special Rapporteur), who struck him on the chest until he fell unconscious. Several hours later, he was interrogated by the probationary sub-inspector who, together with four policemen, beat him until the early hours of 23 September to extract a confession. His hands were bound by chains behind him, and hewas punched and slapped on the stomach, chest, back and head. Urine was forced into his mouth and his feet were struck with a cane as he lay on the floor. The beatings continued over a period of eight days. The police took photos of Sharavanan with different items that they accused him of stealing. On 30 September, he was taken to the local Government hospital at Njarackal and later transferred to the General Hospital, Ernakulam on 5 October. He sustained serious injuries to his organs, including difficulty in passing urine and impaired vision.

Urgent appeals

785. On 15 September 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples and the Special Representative of the Secretary-General on human rights defenders concerning **Umakanta Meitei**, an indigenous human rights defender from Manipur. According to the allegations received, on 9 September 2004 at approximately 2.30 p.m., he was arrested without charges by a Manipur police commando, Central Reserve Police Force, Indian Reserve Battalion, as he was leaving his residence. After being threatened with a gun and blindfolded, he was beaten and taken to jail. He suffered injuries to his head, legs and chest. Umakanta Meitei was reportedly released the same day at approximately 7.30 p.m.

786. By letter dated 23 September 2004, the Government responded that it strongly disagreed that Mr. Meitei was characterized as an “indigenous” human rights defender. India is a land with an ancient culture and history, comprising people of different faiths, languages, customs, tribes, etc. The Government does not recognize any separate category of its citizens as “indigenous” people. It is also not aware of an internationally accepted definition of an “indigenous” person, nor of the competence of the special rapporteurs to make a determination on this matter. On receipt of the necessary correction and clarifications to the urgent appeal, the Government will make all efforts to have the allegation examined.

787. The Special Rapporteur refers to the letter dated 6 October 2004 by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people

and the Special Representative of the Secretary-General on the situation of human rights defenders. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people noted therein that the term indigenous is in fact used interchangeably with other terms, such as “aboriginal”, “native”, “original”, “first nations”, “tribal”, or other similar concepts. He has noted that the absence of an international definition does not prevent the international community for constructive action. While analysing the information regularly brought to his attention, the Special Rapporteur takes into consideration the four principles adopted in 1995 by the Working Group on Indigenous Populations, which included the question of self-identification, as well as recognition by other groups as a distinct collectivity. This was the case of the above-mentioned communication. The Special Representataive considers that any person striving toward the protection or promotion of human rights to be a human rights defender in the context of this activity.

Follow-up to previously transmitted communications

788. By letter dated 10 September 2004, the Government provided information concerning **Mohammed Maqbool Mir** (E/CN.4/2001/66, para. 539). The Government informed that investigations revealed that on 14 July 1998, a report was lodged at the Rattan police station to the effect that he was taken by troops on 13 July 1998 from Check Seri for questioning. During the interrogation he confessed that he had concealed some arms in Gadwani Nalla. He was then taken to the hidden cache, and while digging he picked a grenade and hurled it at the investigation team in order to escape. The team retaliated, which resulted in his death. A First Information Report was lodged at the police station. The medical investigations carried out revealed that death was caused due to a bullet wound, and there was no other mark of violence on the body. The allegations of torture in custody have been found to be false and baseless.

789. By letter dated 11 October 2004, the Government provided information concerning:

790. **Abdul Hamid Wani** (E/CN.4/2004/56/Add.1, para. 684). The Government informed that he and another man were arrested by officers of the Nowgam Police Station on suspicion of possession of illegal arms and ammunition. On 1 December 2002 the police found him hanging in his cell but still breathing and delivered him to Ahmed Hospital. He was transferred to SKIMS Hospital, where he died. The Magisterial enquiry into the matter established physical torture and suppression of evidence by the concerned officials at the Nowgam Police Station, whereupon the Station House Officer and a sub-inspector were suspended. The process for granting compensation is going on.

791. **Nadukaruppasami** (ibid, para. 685). The Government informed that Nadukaruppusamy was arrested at 5 p.m. on 5 December 2002 on suspicion of a series of thefts. When Nadukaruppusamy led the Sathy Police to a hiding place in Seerangankarandu, they had to climb up a hill. The accused slipped, fell and sustained injuries. He was immediately taken to the Government hospital, where he was declared dead. The allegations of torture and ill-treatment are false and groundless.

792. By letter dated 11 October the Government provided information concerning **Dhanajit** (ibid, para. 699). The Government informed that he was arrested by personnel of the Assam Rifles for being an activist of the illegal organization, United National Liberation

Front (UNLF). On 31 July 2003, at the time of being handed over to Singjamei Police Station, he bore no signs of torture or physical abuse, and this was certified by a medical certificate issued by the Chief Medical Officer. He was put in custody in connection with a First Information Report under the Arms and Explosives Act on 1 August and subsequently released on bail on 29 November 2003. According to his family, Dhanajit stayed overnight in the house of his elder brother and left on 30 November without saying anything. According to his father and brother, he might have joined the UNLF again after his release on bail.

793. By letter dated 19 October 2004 the Government provide information concerning:

794. **Ghulam Nabi Dar** (E/CN.4/2002/76/Add.1, para. 642). The Government informed that the army personnel in question detected movement of unknown persons while patrolling in Arampora Village of Budgam District. When approached, these persons fired on the troops, who in turn fired back. One person was found injured and provided with first aid by the army. A First Information Report was lodged at the police station in Budgam. Mr. Nabi Dar was not found to be involved directly or indirectly in any subversive activities or affiliated with any militant group.

795. Journalists **Kumaramanglam**, **Sanam Anjum**, **Syed Muzaffar**, **Sheikh Mushtaq**, **Faya Kabuli**, **Fayaz Ahmed**, **Nassir Ahmed**, **Bilal Bhat**, **Ajaz Rahi**, **Mehraj-u-din**, **Shujat Bhukhar**, **Tauseef Mustafa**, and **Missar Ahmed** (ibid, para. 639). The Government informed that on 9 May 2001 a mine blast took place at Magam near a Border Security Force Battalion, in which 10 persons were killed and 14 injured. On 10 May, when visiting the place of the incident, several media persons were injured and their equipment was damage. A First Information Report has been registered against the Battalion and the investigation is continuing.

Indonesia

796. By letter dated 4 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

797. **Murai Viktor Yoweni**, a Papuan man from Wondiboi, Wasior, Papua, and **Musa Kulla** and **Mandinus Jikwa**, persons arrested and beaten by security forces in relation to an armed attack on a Police Mobile Brigade (Brimob) post in in Wondiboi village on 13 June 2001 (cited in a previously transmitted communication, E/CN.4/2002/76/Add.1, para. 733). On 30 June 2001, Murai Viktor Yoweni was arrested by security forces personnel, and subjected to torture during interrogation to confess his involvement in the attack. Musa Kulla and Mandinus Jikwa were shot in the right leg at point blank range. They initially received hospital treatment in Manokwari and Jayapura, and were later taken back to Polres Manokwari in late June 2001. Medical care was inadequate and their condition deteriorated. In August 2001, they were transferred to Manokwari Prison with the rest of the detainees. Musa Kulla was permitted to visit Manokwari General Hospital on 15 November 2001. It is likely that Musa Kulla will be partially crippled as a result of inadequate medical care.

798. The 16 detainees mentioned in the same communication did not have access to their lawyers until 12 June 2001, over six weeks after their arrest. During this period, they were interrogated and forced to make and sign confessions extracted under torture. A police-

appointed lawyer cross-signed their statements, but the detainees had never met with the police lawyer and he was not present when they were being questioned. The prosecution case was primarily based on their confessions. Their legal representatives complained to the panel of judges that the information in the defendants' statements was false, that the defendants had been tortured, the confessions extracted under pressure, and that most of the defendants could in any not case read the statements that they had signed because they could not read or fully understand Bahasa Indonesian. The judge dismissed the complaint and only queried why the defendants signed the statements if they could not understand them. They were found guilty and sentenced to terms of imprisonment of 14 and 15 months. None of them exercised their right to appeal, apparently because they feared that they might be subjected to further torture or ill-treatment.

799. **Daniel Yairus Ramar**, a 51-year-old-school teacher and deputy head of the Wondama Tribal Council (DPMA), Wondamawi village, Papua. In July 2001, he was arrested in Serui, Yapen Waropen district, where he fled after being pursued by members of Brimob after an attack in Wondiboi village on 13 June 2001. He died on 20 or 21 July 2001 while in police custody in Manokwari. The police claimed that he was already ill when he was taken by the police to Manokwari and that he had died of natural causes. However, medical personnel at Manokwari General Hospital claimed that his body was covered with lacerations and bruises. No autopsy was performed and his relatives were only permitted to take his body for burial on the condition that they did not request an autopsy. Relatives and neighbours of Daniel Yairus Ramar had also been subjected to harassment and violence. As Daniel Yairus Ramar was not in Sanoba village on 9 July 2001 when 30 members of Brimob arrived in search of him, they arrested **Marthinus Daisiwa**, his 21-year-old son in law, and two other men, **Gasper Aronggear** and **Willem Koromat**. The two later were released on 10 July 2001. Both men were bruised, and Gasper Aronggear's ear was torn and one of his teeth had been knocked out. Marthinus Daisiwa remained in detention and was shot in the left leg by Brimob personnel. He initially received treatment for a wound at Nabire General Hospital, where he was handcuffed to a bed. On 18 July 2001, he was taken to Manokwari Police Resort (Polres), where he was beaten. Marthinus Daisiwa was charged with separatism, rebellion, conspiracy to commit separatism, rebellion, participation in an association with the intent of committing crimes, murder, manslaughter, and maltreatment. Witnesses for the defence refused to appear at the trial because they were afraid for their own safety. Marthinus Daisiwa was found guilty and sentenced to one year and ten months' imprisonment. The sentence was increased to seven years by Jayapura High Court. His claim that his confession had been extracted from him under torture was not investigated.

800. **Tonche (Hengki) Baranso**, a teacher, Wasior Sub-district. On 20 July 2001, he was arrested at home by members of Brimob. He and three other men from his village were taken to Wasior Police Sector (Polsek) where they were held for two days, during which time they were beaten both with fists and rifles. The four men were taken by boat to Manokwari Polres, where they were held in a cell with 25 other detainees. Tonche Baranso was handcuffed to another prisoner for a week. On the third day, members of Brimob entered the cell and beat the handcuffed detainees, including him. The following day he underwent interrogation during which he was hit with rattan sticks and rifle butts. He was accused of providing food to a person who was widely believed to have led an attack on a logging company in Wondiboi. He eventually confessed under pressure. The beatings continued on and off for the three months that he was held at Polres Manokwari. He was released in early November 2001, but

was still required to report daily to the police in Manokwari. He was sentenced to one year and three months in prison for participating in a training of the armed independence movement National Liberation Army (Tentara Pembebasan Nasional, TPN) in June 2000.

801. **Willem Korwam**, a health worker from Wasior II village, Wasior Sub-district, Manokwari District. On 6 September 2001, he was ordered to accompany members of Brimob who had come to his home. He was seen walking along the beach with members of Brimob, some of whom were masked. A piece of cloth had been tied around Willem Korwam's mouth to gag him. On 10 September 2001, his dismembered body was discovered in a plastic bag floating in the sea close to Wasior harbour.

802. **A. M.**, aged 17, Meunasah Ujong Baroh. On 14 May 2003, he was arrested in his village by Indonesian National Army (TNI) troops from unit 126/KH. He was taken to the military base, where he was beaten with rifle butts, and kicked with army boots. He was released when his father went to the base. His father took him to the hospital, where he stayed for a few days.

803. The Special Rapporteur has also received information according to which 12 soldiers from Battalion Infantry (Yonif) 301 were acquitted on 10 October 2003 by the Lhokseumawe Military Court. The soldiers had been accused of torturing citizens from East and West Gleumpang Sulu villages, in Deantara district, North Aceh. In a court hearing they confessed that they had subjected some villagers to torture to get information about a member of Free Aceh Movement (Gerakan Aceh Merdeka, GAM). The judges eventually decided that there was not enough evidence to convict the soldiers since it was too dark when the facts occurred and the victims and assaulters could not recognize each other. The court defined the villagers as torture victims but announced that they could not receive any compensation because the perpetrators had not been found yet.

804. **Yapenas Murib** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, para. 773). According to new allegations received, on 15 April 2003 Yapenas Murib died in the Jayawijaya Military Command (Kodim 1702), Wamena. In custody, ropes were tied around his neck and pulled in different directions by the soldiers. Soldiers kicked him each time he fell. He was last seen alive in Ilekma on the evening of 14 April 2003. According to a local newspaper, the autopsy report attributed his death to obstruction of the respiratory tract. The newspaper also quotes the Military Commander of Kodim 1702 as saying that he died after suffering breathing problems although he was provided with medical assistance by members of Kodim 1702 before being taken to Wamena General Hospital. According to the same newspaper, relatives of Yapenas Murib were forced by the military to sign a letter agreeing not to hold them responsible for his death.

805. By letter dated 5 August 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur notified the Government that he received allegations concerning **Muhammad Nazar** (cited in a previously transmitted communication, E/CN.4/2004/62/Add.1, para. 392). On 19 February 2004, he was beaten in the face and kicked in the chest while being questioned by police intelligence (Intel) in Aceh Regional Police Station, Markas Kepolisian Daerah, Mapolda. He was denied access to his lawyers and

relatives. His wife was questioned for six hours at Mapolda on 27 February 2004 about her campaign to release Muhammad Nazar and her relations with Amnesty International.

806. By letter dated 6 August 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he received allegations concerning **Alif Imam Nurlambang**, an editor from Indonesia's 68H radio station, who had been in Aceh for three weeks and had been reporting about the conditions of the displaced population in South Aceh. On 4 July 2003 at about midday, he and his guide were pulled outside the house of a resident he was interviewing in Panton Luas. Five of the soldiers severely beat and kicked him, especially on the back with an M-16 rifle butt, and was threatened with being shot. He was interrogated about numbers in his mobile phone address book, and accused of carrying the numbers of a well-known GAM commander. He was subsequently released.

807. By letter dated 16 August 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he received allegations concerning **300 people from a settlement area in Pidie**. On 13 June 2003, they were forced to gather by TNI and Brimob personnel. They were ordered to line up and perform physical exercise for almost five hours. Many of them were severely beaten. Among those forced to perform physical exercise were women, children and 90-year-old men. 72 people were brought to the public hospital in Sigli. **Umar Bin Usman**, aged 32, and **Muhammad Ali**, aged 21, who were suspected of belonging to GAM, were killed on the spot. Three weeks later another joint TNI-Brimob operation lined up the men, questioned them, and hit them with rifle butts. Seven women were accused of belonging to the women's wing of GAM, and forced to strip in public.

808. By letter dated 16 August 2004, sent jointly with the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur notified the Government that he received allegations concerning **Muzakir Abdullah**, a 21-year-old volunteer for Kontras Aceh, the Commission for Involuntary Disappearances and Victims of Violence in Aceh, living in Batee Leusong, Seumirah village, Nisam district, North Aceh. On 16 June 2004, he was arrested at his house by a group of military personnel. On 17 June 2003, his body was found tied to a tree trunk. His neck was scratched and he had wounds all over his body.

809. By letter dated 20 August 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he received allegations concerning **Johan Calvin Werianggi**. On 4 September 2001, he was arrested by Brimob personnel and taken to Polsek Windesi. Along the way, he was punched, kicked and beaten with the butt of a gun. He was tied to a flagpole in front of Polsek Windesi and beaten. He was subjected to similar treatment once inside. Later that day, he was taken to a boat and has not been heard of since.

810. By letter dated 20 September 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he received allegations concerning **Johan Calvin Werianggi** (cited in a previously transmitted communication).

811. By letter dated 30 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

812. **Kasem Berdan**, aged 75, Paloh Seulimeng village, Jeunieb district. On 24 September 2004, he was arrested by members of the TNI Raider 300 Unit. He was questioned about the whereabouts of a GAM base in the area. He was severely beaten when he denied knowledge and taken away. His whereabouts are unknown.

813. **Muhammad Ibrahim**, aged 54, Paya Karieng village, Suka Jaya, Sabang. On 25 September 2004, at 12.10 am, he was arrested at home by TNI troops and taken to the Police Resort Headquarters (Mapolres), Saban, where he was beaten. On 25 September 2004 at 11 am, he was released and returned home. On 28 September 2004, when he was conducting the night watch in the village, he was arrested again, detained at Mapolres Sabang, and beaten. On 30 September 2004, officials of Mapolres Sabang visited Muhammad Ibrahim's home to inform his wife that he was seriously ill and was hospitalized at Sabang Hospital. He was dead by the time she arrived. She observed injuries all over his head and body, including knife-cuts.

Urgent appeals

814. On 27 January 2004, the Special Rapporteur sent a joint urgent appeal with Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Husni Abdullah**, aged 26, and **Mahyyeddin**, aged 23, members of the People's Crisis Centre (PCC), an organization which provides humanitarian assistance to internally displaced persons in Nanggrose Acre Darussalam Province. According to the allegations received, on 15 December 2003, Husni Abdullah was arrested by members of the North Aceh District Military Command (Kodim 0103) at the PCC Office in Meunasah Mesjid Cunda village. At the time of his arrest, he was beaten, interrogated, and his office was searched. He was initially held in Kodim 0103 and transferred around 3 January 2004 to North Aceh District Police Station (Kapolres), where he has been denied access to his family or lawyers. He has lost several teeth as a result of being beaten with fists and rifle butts. On 15 December 2003, Mahyyeddin was arrested by officers from Kodim 0103 in Sawang Kupala Cunda village. He was also held at Kodim 0103 before being transferred to Lhokeseumawe Prison, where he is believed to have no access to his family and only limited contact with his lawyers. He has been beaten while in custody.

815. On 25 February 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 right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Masrizal**, **Iwan Irama Putra**, aged 27, a member of the Network of Linge Students (IMPEL) based in Central Aceh district, whose work has included providing assistance to internally displaced people, Ms. **Harlina**, aged 22, a member of IMPEL and the Acehnese Democratic Women's Organization (ORPAD), which carries out activities for women's education and empowerment throughout Nanggroe Aceh Darussalam Province, Ms. **Nova Rahayu**, aged 23, Ms. **Nursida**, aged 22, both members of ORPAD, and **Syafruddin**, a member of the educational and human rights organization, Student Solidarity for the People (SMUR), all

living in Banda Aceh. According to the allegations received, on 19 February 2004, Brimob officers arrested Masrizal at his home on suspicion of being a member of GAM. He is believed to be held in Banda Aceh Regional Police Station (Mapolda Banda Aceh). On 22 February at around 12.30 pm, Iwan Irama Putra was arrested by Brimob at a friend's home, and has not been seen since. He was an acquaintance of Masrizal. On 23 February at around 4 am, Harlina was arrested at home, beaten, and taken away in a Kijang minivan. She was last seen approximately two hours later, when police took her with them to the house of another activist. At around 5 am, police arrived at the student dormitory looking for Syafruddin. At 6a m, Nursida and Nova Rahayu were arrested at Nursida's home, and taken away in two trucks. Their whereabouts are unknown.

816. On 5 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 the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Bestari Raden**, a 55- year-old environmental and pro-democracy activist. According to the allegations received, on 23 March 2004, he was arrested by soldiers from the Aceh Tenggara District Military Command (Kodim 0108) in Lawe Pakam village, Babul Makmur Sub-district, Aceh Tenggara district, Nanggroe Aceh Darussalam Province. It is alleged he is now held in Kodim 0108, and is undergoing intensive interrogation.

817. By letter dated 17 June 2004, the Government informed that he was arrested on 23 March 2004 for his involvement in a violent rally as well as in a number of serious crimes, including murder, instigation of violence, arson, kidnapping and damage to public property. Notwithstanding the seriousness of the accusations against him, the Government reassured that a thorough inquiry into Bestari Raden's activities is being conducted responsibly, and is still ongoing. All the necessary measures are being taken to ensure the full protection of his rights, and he has been given due process of law throughout the duration of his detention. The expressions of concern over allegations of torture and ill-treatment against him are therefore unfounded. He is currently in the custody of the South Aceh police headquarters, where he was transferred after one month spent in the custody of the local Aceh Tenggara district police station following his arrest. During this time, he has had access to lawyers, no less than five of whom accompanied him during his transfer. The Government informed that on no account would Bestari Raden be detained for any of the normal activities associated with overt and peaceful support for environmental or democratic causes.

Iran (Islamic Republic of)

818. By letter dated 11 June 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received information on the formation of "the Headquarters to Pre-empt and Combat Special Offenses". 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 Judiciary 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. 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 "offenses reported in connection with women" (*Jomhouri Islami Daily*, 1 June 2004).

819. By letter dated 29 June 2004, the Government informed that the communication does not contain any instances of violation of human rights. Establishing an organizational structure does not substantiate human rights violation allegations. The 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 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.

820. By letter dated 21 July 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning **Mohsen Mofidi**, aged 35. He had been convicted on charges including possession of a medicine containing alcohol, consumption of alcohol in the early 1980s, possession of a television satellite dish, and aiding and abetting his sister's "corruption" in having boyfriends. He was sentenced to 80 lashes, to be carried out at the completion of a four-month prison sentence. On 11 February 2004, on the 25th anniversary of the revolution, the rest of his prison sentence was suspended, and the flogging was scheduled to take place on the day of his release. While he was in Qasr prison, he suffered from a lung and sinus infection as he was kept in extremely poor conditions. He spent a week in a medical facility, where he experienced periods of semi-consciousness from which he did not fully recover from at the time of his flogging. On 18 February 2004, he was released after the flogging was carried out and was in poor health when he arrived at the home of a relative in Tehran. His condition quickly deteriorated. He died four days afterwards in hospital. Although a doctor certified that his death was due to a heart attack, Mr. Mofidi never suffered from any heart complications before.

821. By letter dated 26 July 2004, sent jointly with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations concerning **Mohammad Reza Aghdam Ahmadi**. According to the allegations received, on 24 July 2004, he was acquitted after a two-day trial for the charge of the "semi-intentional" murder of Zahra Kazemi, a journalist who died in a Tehran jail in July 2003, after she was beaten and subjected to other forms of ill-treatment in custody. The trial did not meet international standards of fair trial as lawyers involved in the case have claimed that key evidence has either been ignored or covered up, including documents and testimony by witnesses that may disclose incriminating evidence against judicial officials, the prosecutor's office and the intelligence ministry. The chief lawyer acting on behalf of Ms. Kazemi alleged that if the court had summoned certain witness to testify, as requested by their legal team, they could have provided evidence on who was really responsible for the death of Ms. Kazemi. Lawyers acting for Ms. Kazemi have 20 days to appeal the decision. The Tehran prosecutor pressured some journalists not to report on parts of the trial of Mr. Ahmadi, saying to a

journalist, "It's in your interest to consider the murder trial over and avoid publishing things that you should not." Journalists and other trial observers, including foreign diplomats who were initially approved to attend the entire trial, were barred access to the courtroom.

822. By letter dated 15 December 2004, the Government informed that Zahra Kazemi's legal case was assigned to the Tehran Public Court, Branch 1158 for consideration by the Tehran Office of the Public Prosecutor. The first hearing was convened in public and in the presence of the accused, his legal counsel, a representative of the public prosecutor, media, the Ambassador of Canada, and a number of diplomats from other countries. This hearing was suspended at the request of the accused's counsel, for further preparatory measures. The next session of the hearing was convened in the presence of four lawyers of Ms. Kazemi's family, the accused and his counsel, the Ambassador of Canada, two diplomats from the United Kingdom and the Netherlands, and domestic and international media. The two sides presented their cases in a hearing lasting 15 hours and the court issued the initial verdict. It was appealed by the victim's counsel and the case is still open for further consideration.

823. By letter dated 19 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Hajikhan Amiri**, a businessman in his seventies, residing in the south Teheran suburb of Islamshahr. According to the allegations received, in July 2001, he was arrested in Tehran together with his wife and one of their children. During his detention, he was subjected to torture and other forms of ill-treatment. The family was released but Hajikhan Amiri was later re-arrested. He was initially held in Evin Prison but was subsequently transferred to Gohardasht Prison, Karaj, where he was kept in solitary confinement. He was subjected to torture while being interrogated, as a result of which his physical condition deteriorated. He was refused medical attention and died on 25 August 2003. Shortly before his death, he was dragged away from his cell, unconscious and with his feet shackled, to an unknown location. Once his relatives were allowed to collect his body, they were told to bury it quickly and without any forensic examination. His burial was attended by a large number of Islamshahr residents and his family was subsequently arrested by the Ministry of Intelligence agents.

824. By letter dated 21 October 2004, the Government informed that according to the forensic examination report carried out approximately 23 hours after his death, there was no physical evidence of any maltreatment or torture on his body. Based on this report, the cause of death was cardiac arrest.

825. By letter dated 17 September 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received allegations concerning **A. R.**, a 16-year-old girl. On 15 August 2004, she was publicly hanged on a street in the city centre of Neka, Mazandaran. She was sentenced to death, approximately three months before, by a lower court in Neka, for "acts incompatible with chastity". She was mentally ill both at the time of the crime and during her trial proceedings. She was not represented by a lawyer at any stage of her trial and she consequently defended herself. Although her national identity card stated that she was 16 years old, the Mazandaran Judiciary announced at her execution that she was 22. Her co-defendant was sentenced to 100 lashes and released after the sentence was carried out.

826. By letter dated 21 October 2004, the Government informed that she 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 to 70 and 90 of the Penal Code. The sentence has since been upheld by the Supreme Court and was carried out on 15 August 2004. She had legal counsel throughout the proceedings and indicated that she was 22 years of age. No evidence of physical or mental incompetence was mentioned during the proceeding.

Urgent appeals

827. On 29 January 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 right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders regarding **Arzhang Davoodi**, a 47-year-old engineer and poet. According to the allegations received, in July or August 2003, he was arrested in Tehran by members of the security forces after he gave an interview to the BBC about allegations of political corruption in Iran. The authorities have, however, denied his arrest and detention. Since December 2003, Mr. Davoodi is detained in solitary confinement in Evin Prison, Tehran, where he has been subjected to ill-treatment and torture. As a result, he has lost his vision in the left eye and is in very poor health.

828. On 16 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression regarding **Amir Abbas Fakhravar** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, para. 815). According to the allegations received, Amir Abbas Fakhravar, who has been in prison for over a year, was taken in January 2004 from Qasr prison to a detention centre called 125 to be interrogated about his suspected links with a political organization called Jonbesh-e Azadi-ye Iraniyan. The centre is under the control of the Revolutionary Guards, and his cell in the 125 detention centre has no windows and is completely painted white. His clothes were also white. At meal times, he was given white rice on white disposable paper plates. If he needed to use the toilet, he had to put a white slip of paper under the door of the cell to alert guards, who wore footwear designed to muffle any sound. He was forbidden to speak to anyone. This technique of sensory deprivation is referred to as "white torture" (shekanjeh-e sefid). On or around 8 February 2004, Amir Abbas Fakhravar was allowed to leave the detention centre, but two days later he was taken into custody again. His current whereabouts are unknown.

829. On 25 March 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 health and the Special Representative of the Secretary-General on the situation of human rights defenders regarding **Arzhang Davoodi,** cited in a previously transmitted communication, and in another on 10 March 2004 sent by the Special Rapporteur on the right to freedom of opinion and expression, the Special Representative of the Secretary-General on human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. According to the allegations received, Mr. Davoodi remains in prison despite the payment of a 50-million Tomans bail, as requested by the judicial authorities. The authorities have refused to release him on the grounds that his file is "not complete". Arzhang Davoodi was tortured and kept in solitary confinement for 100 days while he was held in Section 325, a

detention facility run by the Revolutionary Guard in Evin Prison. During the winter, for several days he was kept in a room with the air conditioning turned on all night, making the room even colder. The torture has left him with a broken shoulder blade, bleeding in his left eye, deafness, a broken jaw and broken teeth. A doctor indicated that he required treatment for his eyes, ears and teeth, and physiotherapy for his shoulder. On 17 March, Arzhang Davoodi was transferred from Salon 1 of Evin Prison, where he was detained since his transfer from Section 325 in early March, to Salon 8 of Evin Prison, which is used for people detained for financial offences, and has no medical facilities. Prison officials have denied him the necessary medical treatment to date. Since his arrest in July or August 2003, Arzhang Davoodi has been allowed to make phone calls to his lawyer, and to meet with him on one occasion. However, his lawyer has not been able to have a copy of his file, and it has not been established whether Mr. Davoodi has been formally charged with an offence.

830. By letter dated 10 June 2004, the Government informed that Arzhang Davoodi has been under medical examination by the prison doctors as required. He has been examined by an ophtalmologist, since he was dizzy and had headaches while reading, and has been provided with eye-glasses. As a result of an examination by an ear, nose and throat doctor, his left ear has been diagnosed as being slightly impaired, which could be a sign of previous damage. There is no urgent treatment required for that ear and it will improve gradually.

831. On 13 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Rapporteur on the right to health, regarding **Siamak Pourzand**, aged 74, and head of *Majmue-ye Farhangi-ye Honari-ye Tehran*, Tehran Artistic and Cultural Centre (cited in previously transmitted communications, E/CN.4/2003/68/Add.1, paras. 689 and 691). According to the allegations received, Siamak Pourzand is serving an 11-year sentence handed down in 2002. He is held in solitary confinement in poor conditions of detention. Siamak Pourzand is suffering from spinal stenosis that, according to doctors, requires immediate surgery. To date he has not received medical treatment for this condition. Around 31 March 2004, he fell into a coma and was not treated until another prisoner went to the prison medical facility and insisted that someone examine him. He regained consciousness 36 hours later. On 5 April 2004, Tehran's Chief Prosecutor visited him and told him that he would not be released in the near future because he would "make too much noise". After the Special Rapporteur on the right to freedom of opinion and expression met with Mr. Pourzand during his visit to Iran in November 2003, the authorities committed to granting him a complete amnesty (E/CN.4/2004/62/Add.2, para. 108).

832. On 23 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the right to health concerning **Siamak Pourzand**, (cited in a previously transmitted communication, see above). According to the allegations received, on 18 April 2004, Mr. Pourzand who is unable to walk and is supported by two prison guards, was taken to the prison's visiting room to see his sister. A few hours later, he was transferred to the intensive care unit of Modares Hospital. In the hospital, Mr. Pourzand has been chained to his bed by his feet. He is in need of an urgent operation for his back problems, and adequate medical treatment is not being granted to him.

833. On 4 May 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 the right to freedom of opinion and expression regarding **Farzad Samadli**, **Ali Reza Farshi**, **Mehdi Gharadaghi**, **Hasan Rahimi Bayat**, **Sayyad Mohammadian**, **Rasul Samadpur**, **Parisa Babai** (**Mahni Zenganli**), **Gholam Reza Amani**, **Arkin Musavi**, **Fazel Musavi**, **Mahmud Fazli**, **Ebrahim Jaafarzadeh**, **Seid`Mughanli**, **Ilqar Marandli**, **Atila Kishizade**, **Eyvaz Qoshachay**, **Hafiz Qoshachay**, **Said Naimi** and **Reza Abbasi**. According to the allegations received, they have been arrested in Tehran and held without charge. Said Naimi might be held at Rajashahr Prison, Karaj, and Farzad Samadli, Ali Reza Farshi, Mehdi Gharadaghi and Masud Yusefi might be held at Evin Prison, Tehran. The whereabouts of the 14 others are unknown. They were either called to the offices of the Intelligence Ministry, Vezarat-e Ettalaat Va Amniyat-e Keshvar, or arrested at their homes or in the streets.

834. On 9 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 health and the Special Representative of the Secretary-General on the situation of human rights defenders regarding **Akbar Mohammadi** (cited in a previously transmitted communication, E/CN.4/2001/66, para. 625). According to the new allegations received, he was subjected to several mock executions during his first year of imprisonment. During this year he was also subjected to severe ill-treatment. He was handcuffed, suspended by his arms, and whipped on the soles of his feet with electric cables. His beatings resulted in the loss of 40 per cent of his hearing in his left ear. On one occasion, he was kicked down a flight of stairs and broke his pelvis. He was denied medical treatment and he has been unable to walk comfortably since. At the end of November 2003, Akbar Mohammadi was hospitalized for stomach and kidney problems, including internal bleeding, and possibly a lung infection. Although a hospital doctor recommended a hospital stay of one month, he was transferred back to Evin Prison after six days. His health is said to have deteriorated since then, as the operation he underwent at that time was unsuccessful. A medical report prepared by medical officials in Evin Prison states that he requires further medical intervention outside the confines of the hospital and a period of rehabilitation in a suitable environment.

835. Allegations were also received concerning Akbar Mohammadi's brother, **Manuchehr Mohammadi** (cited in previously transmitted communications, E/CN.4/2003/68/Add.1, para. 694, and E/CN.4/2004/56/Add.1, para. 819). According to the new allegations received, on 5 September 2003, when his mother visited him in Evin Prison, his face was badly bruised, he could hardly walk and he told her that he had been tortured. His sentence was extended by two years at the end of November 2003. He is currently suffering from gingivitis and chronic, severe bleeding from the gums, which is said to cause him pain when he speaks or eats. Doctors in Evin Prison are said to have recommended that he be treated outside the prison.

836. Allegations have also been received according to which their relatives have been subjected to intimidation and harassment for their efforts to seek guarantees for the rights of the two detainees. On 8 July 2003, their father, Mr. **Muhammad Muhammadi**, and their sister, **Simin**, were arrested and taken to Evin Prison. Simin was beaten in front of her father and dragged away. She was held in solitary confinement for 14 days. She was interrogated for several hours every night and asked about the activities of her sister Nasrin, who lives in Europe, and her brother Manuchehr. She was threatened with further beatings and death.

While in custody, she spent five days in the prison hospital due to breathing problems. She was released on bail on 22 July 2003. When Simin was in custody, her father was told that she and he would be severely beaten if he kept asking about her whereabouts. He suffered a heart attack while kept in solitary confinement. He was then released on bail. On 28 June 2004, the family of Akbar and Manuchehr Mohammadi was threatened again with unspecified reprisals if they publicly discussed the plight of the two brothers.

837. By letter dated 12 August 2004, the Government informed that Akbar Mohammadi and Manoochechr Mohammadi are serving their prison terms, enjoying required medical care and other facilities and they go on leave on regular intervals. Concerning the relatives, there is no record of their detention.

838. On 3 August 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers regarding Mr. **Mostafa Piran**, a 47-year-old retired teacher, father of Mr. Peyman Piran, a member of the National Union of Iranian Students and Graduates (Anjoman-e Daneshjuyan va Daneshmukhtegan), who is in jail on charges connected with student activism. According to the allegations received, on 4 July 2004, Peyman Piran and 11 other prisoners began a hunger strike to mark the fifth anniversary of the July 1999 student-led demonstrations, known as 18 Tir. As a response, the prison guards warned Peyman Piran that his family would "pay the price" for his actions. At the same time, his family was pressured to publicly beg forgiveness for Peyman Piran and to urge him to publicly admit his "mistakes" and seek forgiveness. As they refused, they were threatened with eviction from their apartment. On 6 July 2004, Mostafa Piran and his family were forcibly evicted by a large group of security forces from their rented apartment owned by the Education Ministry. The security forces threw the family's belonging into the street and confiscated them. They sealed off the apartment and the streets surrounding the building. During the eviction, Mostafa Piram was severely beaten in front of his family. He was first taken to an unofficial detention centre under the control of the Ministry of Intelligence and later to Evin Prison, where he is currently held. He was ill-treated during prolonged interrogation sessions. A relative who was allowed to visit him reported that he was badly bruised. He has not been allowed to see a lawyer and that he has not been informed of any charges against him.

839. On 23 August 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders, concerning Mr. **Arzhang Davoodi** (cited in previously transmitted communications, see above). According to recent allegations received, he has been in solitary confinement for the last two weeks. While in solitary confinement, he has not been allowed phone calls or visits from his family, and he has only been able to meet his lawyer on one occasion, on 15 August. The visit lasted five minutes. Since March 2004 he has been subjected to ill-treatment. On one occasion, he and 22 other detainees were kept in a room 24 m2 large, without air-conditioning or water. He is also believed to have been repeatedly subjected to beatings, including more than 500 blows to his left ear. Although a prison doctor made a formal request to the prison authorities that his left ear be operated on as soon as possible, the judge responsible for his case refused on grounds that in hospital, the detainee would spread the story that he was being treated for injuries caused by torture in detention. Mr. Arzhang Davoodi was due to be released in

March 2004 after his family paid bail. However, he was told by the judge that the court will not hear his case and that he will not be released until he signs the confession he has been asked to sign. He has not been formally charged yet.

840. By letter dated 6 October 2004, the Government informed that he was charged with activities against the internal security of the State. He has been sentenced to imprisonment and is currently serving his prison term. He has been temporarily transferred to Rajaee-shahr Prison, but has never been in solitary confinement. He recently met with his family.

841. On 1 September 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding **A. K. C.**, aged 17. According to the allegations received, he is at risk of imminent execution. On 27 April 2002, he was arrested and charged with murder, and sentenced to death on 19 January 2003. On 29 May 2004, his sentence was confirmed by the Supreme Court. His sentence was mainly based on a confession obtained under physical and mental pressure while in police custody.

842. By letter dated 28 October 2004, the Government informed that he was charged with murder, and based on his confessions and evidence presented was sentenced to death. The verdict has been upheld by the court of appeal, however, it has been put onhold by the Head of the Judiciary pending further investigations.

843. On 8 September 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding **Esmail Mohammadi**, aged 38, of Kurdish origin. According to the allegations received, he is at risk of imminent execution. In October 2002, he was arrested and held incommunicado for eight months in Oroumiye Prison. During this period he was subjected to various forms of torture and ill-treatment. In July 2003, he was charged with "armed struggle against the Islamic regime" and "membership of a proscribed organization" and sentenced to death by Branch 1 of the Oroumiye Revolutionary Court. The confession, which was extracted under torture, was used in the court hearing. On or around 11 August 2004, Branch 32 of the Supreme Court upheld the death sentence. His family has recently been informed that he will be soon transferred from Oroumiye Prison to Perhanshar Prison.

844. On 24 September 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding Mr. **Hojjat Zamani**, aged 28, from the Elam region in south western Iran. According to the allegations received, he is at risk of imminent execution. Hojjat Zamani was arrested in Tehran in 2000 for terrorist-related offences. He was severely tortured while in detention and his case did not go to trial at that time. He escaped from detention around August 2003 and fled to Turkey, where he was arrested on 3 August 2003 and kept at an undisclosed location for several months. An urgent appeal was sent to the Government of Turkey (E/CN.4/2004/56/Add.1, para. 1760). Since then he was forcibly returned to Iran in November 2003.On 17 July 2004, Hojjat Zamani was tried at Branch six of Tehran's Revolutionary Court. He was sentenced to 10 years' imprisonment and four death sentences. He was sentenced to death following a trial that may have fallen short of international fair trial standards. Reports indicate that he is currently held in Section 209 of Tehran's Evin Prison.

845. 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 violence against women, regarding **J. I.**, age 13. According to the allegations received, she is at risk of imminent execution. She was raped by her 15-year-old brother and became pregnant. She was sentenced to death by lapidation in Marivan for adultery. She gave birth to her baby about two weeks ago. J. I. will not have the possibility to appeal the sentence that is said to be carried out in the coming days. Her brother was sentenced to 100 lashes. He is currently in prison in Tehran awaiting his punishment.

846. By letter dated 28 October 2004, the Government informed that they have been acquitted of adultery charges because they are minors, and the sentence of death by lapidation is categorically denied.

847. On 15 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 right to freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders, concerning **Omid Memariyan**, a 30-year-old Internet journalist and civil-society activist working on the training and capacity-building of Iran's developing NGO sector. According to the allegations received, on 10 October 2004, he was arrested at his office in Tehran. He is being detained without charge at an undisclosed location, although he is believed to be held in solitary confinement, under the jurisdiction of Branch 9 of the Revolutionary Court, in the vicinity of Tehran Airport. His family has seen him just once, in a meeting of four minutes duration, which took place at Branch 9 of the Revolutionary Court. Omid Memariyan appeared extremely distressed. He has reportedly refused to exercise his right to appoint a lawyer.

848. By letter dated 20 December 2004, the Government responded that he was detained for participating in the establishment of an association against the internal security of the State, activities against the State and the dissemination of false accusations. He has been released on bail.

849. 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 violence against women and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding Ms. **Mahboobeh Abbasgholizadeh**, an activist for women's rights, editor of *Farzaneh* (a journal for women's studies), and director of the NGO Training Centre. She was also the subject of a letter dated 10 November 2004 sent by the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on violence against women. According to the allegations received, on 1 November 2004, she was arrested at her home and is detained incommunicado. To date, no formal charges have been brought against her. 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.

850. By letter dated 20 December 2004, the Government informed that she was detained for her activities against the State and inspiring immoral acts in society. She has been released on bail.

Follow-up to previously transmitted communications

851. By letter dated 7 May 2004, the Government provided information concerning **Ehsan Mohammadi**, **Ali Sayyadi**, **Hessam Biabani**, **Mohammad Khezri**, **Sassan Rahmani**, **Zahra Nazari**, **Mohsen Zari**, **Roya Kaghazi**, **Ali Movahhed**, **Sara Eghbali**, **Nasrin Barghi**, **Ali Akbari**, **Majid Zohouri**, **Nazanin Hejazi**, **Saba Monjeh**, **Asghar Rahimi**, **Shohreh Sanai**, **Saeed Akrami**, **Nasrin Najmi**, **Hassan Zeidan**, **Arash Keikhosravi**, **Behnam Amini**, **Medhi Pour-Rahim**, **Soroush Azizi**, **Medhi Allahyari**, **Kiafar Jahan**, **Medhi Nakhl-Ahmadi**, **Morteza Zavvarzadegan**, **Peiman Aref**, **Farid Salavati**, **Azam Bahrami**, **Ali Farrokhi**, **Tirgarnejad**, **Mohammad-Ali Hajari**, **Amin Sorous**, **Abolfazl Hosseinzad**, **Roya Hassanizad**, **Massoud Eidizad**, **Siamak Bakhshi**, **Reza Naderi**, **Moslem Faveilzadeh**, **Massoud Shafii**, **Alireza Ruygar**, **Soussan Khodaparast**, **Quassem Moghaddam**, **Ali Pourhamdeh**, **Diba Naderi**, **Hassan Langeh**, **Sirous Ashkani**, **Morteza Talabzad** and **Youness Akriali** (E/CN.4/2004/56/Add.1, para. 807). The Government informed that following a review of the case by the judiciary, there were no files relating to the arrest and detention of the above-named persons.

852. By letter dated 11 June 2004, the Government provided information concerning **seven women** (E/CN.4/2004/56/Add.1, para. 834). The Government informed that four men and two women were accused of repugnant behaviour to the public. Action was taken by the Provincial Court and the accused were sentenced to lashes. As yet the sentence has not been carried out.

Observations

853. The Special Rapporteur draws attention to the statement issued on 27 July 2004 jointly with the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, concerning the acquittal in the case of the alleged killing of the journalist **Zahra Kazemi** (E/CN.4/2004/56/Add.1, para. 806; see also above). She was reportedly beaten and subjected to other forms of ill-treatment in detention in Evin Prison, Tehran, and died on 20 July 2003. Many reports indicate that the proceedings did not meet international standards of a fair trial.

Israel

854. By letter dated 5 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

855. **Amad Sherif**. He was arrested at his home on 12 January 2003 and brought to the Ofer Detention Camp. Soon afterwards he was transferred to the General Security Service (GSS) Interrogation Unit at the Russian Compound in Jerusalem, then to the Kishon Detention Centre, and later to the Eshel Prison. An Order Prohibiting Meeting with Counsel was imposed against Amad Sherif following his arrest. He was held in incommunicado detention until 20 January 2004. In a sworn affidavit on 27 June 2004, Amad Sherif stated that at the

Ofer Detention Camp his interrogators threatened to use "military interrogation" because he was a "ticking bomb". He stated that the interrogators slapped him on several occasions, and forced him to sit with his back bent (the so-called "banana method") for a half an hour at a time. During his first three days at the Russian Compound Detention Centre he was forced to sit with his back bent backwards, and his interrogators tightened his handcuffs until he needed medical attention. The interrogators forced him to lean against a wall with his legs bent until he collapsed from the pain. He was also forced to squat for more than one hour. He stated that the interrogators threatened to arrest his family and deport them to Gaza. One week following his arrest, the interrogators let him see his mother through his cell door, and he was told that she was under arrest and would remain in detention until he confessed.

856. **M. A. F. S.**, 16 years old. At around 2 pm on 24 April 2003, in a taxi on the way to school, he was arrested by Israel Defence Forces (IDF) near Kfar Geva, Jenin. The soldiers handcuffed him, stripped him of his clothes down to his underpants, and hit him all over his body and on the head. They tightened his handcuffs so much that the marks were still visible two and a half months later. While they were transporting him blindfolded to the prison facility at Araba, the soldiers beat him again. When they arrived, they threw him into the camp with his hands and feet tightly handcuffed. M.A. F. S. was left that way until 10 pm, without receiving any food or drink. He was then transferred to the Salem detention facility. There, four soldiers beat him using the butts of their rifles and sticks on the head, face, stomach and legs until he bled. The beatings lasted until 2 am. M. A. F. S. was subsequently taken to the Kishon Detention Centre, where he was questioned for three hours while seated on a small chair, with his hands and feet handcuffed and his body bent backwards. After this, he was put in solitary confinement for one week. During this time he was interrogated twice, once for six hours and once for three hours. He was then taken to the Megiddo Prison. After having been held there for 15 days in a tent with 20 other prisoners, he was sent back to the Kishon Detention Centre for another week in solitary confinement. On the seventh day of detention there, he was taken for an interrogation that lasted from 10 am to 5 pm. During this interrogation, he was placed seated with his back stretched backwards, and the interrogator kicked him in the legs. The following day, he was again interrogated for three hours, seated in the same position. The kicks that he received made it difficult for him to stand. He was taken back to his cell, where he remained until 20 June 2003, when he was taken to the Sharon Prison, where he is still being held.

857. **Osama Abu-Hin**, 28 years old. Around 11.30 am on 1 May 2003, IDF soldiers broke into his home in the Al Shajaiya neighbourhood in Gaza City and killed three members of his family while arresting him, along with Yasser Abu Hin, a 25-year-old journalist. The soldiers tied Osama Abu-Hin's hands with tight handcuffs, covered his eyes and transferred him to the Erez detention facility where he was kept in a 2m2 cell together with two, and sometimes three, other persons. There was no toilet in the cell and the detainees were forced to use a bucket in the corner, resulting in extremely bad odours. The cell had no artificial light or mattresses and the inmates had to sleep on the floor. The cell also had only one window without glass, thus exposing the inmates to the elements, flies and mosquitoes. While at the Erez detention facility, Osama Abu-Hin was interrogated by the GSS officers three times, each session lasting four hours. His interrogators threatened him with violence, sexual harassment and sodomy if he did not confess to the crimes he was charged with. During the last eight days of his detention in the Erez facility, Osama Abu-Hin was kept in solitary confinement. On 18 May, he was transferred to the Shikma detention centre in Ashkelon. In

the Shikma detention centre he was interrogated daily from 10 am until 8 pm. During the sessions Osama Abu-Hin was seated on a low stool, his back bent backwards, with his hands and legs tied in tight-fitting chains, which drew blood. This technique is known as "Shabeh." His interrogators slapped him on the face and threatened to demolish his home and arrest the members of his family if he did not confess. Mr. Abu-Hin is currently being detained at the Ketziot Detention Facility in the Negev.

858. **M. A.**, aged 17, Azariya. On 4 September 2003 at 1 am, he was arrested and taken to the Ma'ale Adumim police station on suspicion of throwing stones and Molotov cocktails. At the time of his arrest, M. A.'s mother gave medical reports to the soldiers, stating that he was recovering from cancer and required regular check-ups, but the soldiers tore them up. He was then taken to the Atzion military detention centre, where four policemen in plain clothes beat him on the face, hands, legs and feet. They tied his hands and legs with cuffs and opened his legs with force to hit him on and around his genitals. A soldier pulled him by the hair and administered electric shocks by placing electrical cords on his body. A dog was brought in to scare him. Throughout the interrogation he was subjected to verbal abuse. M. A. was forced to sign a statement, which was not translated. Upon experiencing chest pains a doctor was brought in and advised him to drink one litre of water per day, without an examination. In detention he was denied medication and treatment for his existing health condition. M. A. was held in a small, dark and damp cell with up to eight persons. Small quantities of food of poor quality were provided.

859. **R. A. A. N.**, aged 13, Jericho. On 28 September 2003 at midnight, he was arrested at the Ma'ale Adumim checkpoint and taken to the Ma'ale Adumim settlement and interrogated. He was beaten during the interrogation by soldiers and then moved to the Atzion detention centre. For two days R. A. A. N. was kept in solitary confinement in a cage. After that he was put into a cell packed with other prisoners.

860. By letter dated 5 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Facility 1391**, located in military base 1391, outside of Tel Aviv. According to the allegations received:

861. The secret facility is used for the interrogation of Arab prisoners, who are held incommunicado and in total isolation, in some cases for months and even years. Access to the facility by family members, lawyers, as well as the International Committee of the Red Cross, is denied. The detainees are not informed where they are held, but have been told: "you are on the moon", "you are in a grave", "you are outside Israel", "in a submarine", "in space", on another planet" in order to deepen the sense of abandonment. They are placed in small, damp, windowless cells with walls painted dark, and a low buzzing noise playing constantly. Some cells have no toilets, but buckets for waste instead, which are emptied every few weeks. Personal hygiene is difficult to maintain because of the lack of running water, soap, clean clothes and towels. The mattresses are damp and filthy. It is said that the clothes and bedding are insufficient to protect against the cold. When taken from the cell a sack is put over the detainee's heads. The soldiers prevent the detainees from sleeping by pounding on the cell doors. Detainees have been forced to undergo severe beatings, including sexual assault, have been held naked for days and photographed, prevented from going to the bathroom, and had threats made against family members. Detainees have testified that they have suffered severe mental distress as a consequence of detention in the facility.

862. By letter dated 30 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

863. **M. H. I. A**, aged 16 and his brother, **A.**, aged 13, Gaza. On 11 January 2003, they were wounded and apprehended by members of the IDF and transported to the Soroka Hospital, Beer-Sheva. They were handcuffed to their beds on arrival, were denied access to their parents, and remained restrained to their beds for five days.

864. **Riham As'ad Muhammad Sheikh Muss**, aged 15. On 23 February 2003, she was hospitalized with injuries to her stomach, intestines and leg at the Meir Hospital, Kfar-Saba, after she was shot by a member of the Israeli Defence Forces. Despite her injuries, she remained handcuffed to her bed for the entire three-week period of hospitalization.

Urgent appeals

865. On 8 April 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Mohammed Kannaneh**, aged 38, and **Maied Kannaneh**, aged 33, both from Arrabeh village, Galilee. According to the allegations received, they were arrested on 7 February 2004, detained without charge and prevented from meeting with their lawyers for 21 days. During the first three weeks of their detention, they were subjected to intensive interrogation by the GSS personnel. They were deprived of sleep and painfully handcuffed to a chair. They were indicted on 4 March 2004 for suspected security offences. Since their indictment, they have been held at the GSS cellblock of the Kishon Detention Centre in a 9m2 large cell with no windows and hosting up to six detainees. As there are no beds in the cell, the detainees sleep on mattresses on the floor and use dirty blankets supplied by the Detention Centre. The detainees are allowed to leave the cell only during visits with their lawyers or for medical check ups. Although Mohammed Kannaneh and Maied Kannaneh are entitled to receiving the visit of their lawyers once a day, contact with their relatives has been strictly forbidden. With a view to protest against these conditions of detentions, the two above-named detainees undertook a hunger strike. As a result of the reported intensive interrogation sessions, the alleged poor conditions of detentions and the hunger strike, Mohammed Kannaneh and Maied Kannaneh are said to be in a poor condition. On 31 March 2004, the Haifa District Court reportedly denied a motion filed on behalf of the two detainees, which requested an immediate transfer to another Prison Service facility and the improvement of the conditions of detention in the GSS cell block. The Haifa District Court reportedly ruled that this petition would be scheduled for a hearing if the petitioners were not transferred by 13 April 2004.

Jamaica

Urgent appeals

866. On 24 May 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Curtis Greenwood** and **Jeffrey James**. According to the allegations received, they are held in incommunicado detention without charges at Spanish Town Police Station in relation to an incident where a stone was thrown at a police superintendent during a roadblock

demonstration in Morgan's Lane district in December 2003. A senior officer told a member of the community last December that "If the youth wanted to live to see their children grow, they should make sure they did not go near any building sites for work." Curtis Greenwood's brother, Otis Phillips, was threatened in March 2004 by a Senior Superintendent of police from Spanish Town, who told him that he was on "borrowed time". In retaliation for throwing the stone, on 5 May 2004, at around 6 am/, **Robin Anderson**, another resident of Morgan's Lane, was shot dead by the police while he was in his bed and offered no resistance. After the shooting, the police removed evidence, washing away the blood and taking away the bloodied sheets. Prior to his death, he received death threats from police officers, which were reported to the Police Public Complaints Authority. On 9 May 2004, members of the Morgan's Lane community were threatened with death if they buried Robin Anderson. A police officer said that if the funeral took place, there would be more bodies than people to bury them. The funeral has not yet taken place. In an attempt to intimidate the community after the shooting, the police rounded up 20 young men from nearby houses, most of who were later released. Independent medical reports confirmed that several of them had been badly beaten, including Rowan Anderson and Christopher James. Curtis Greenwood and Jeffrey James, however, are still detained incommunicado. The two men have been beaten in detention and that the police have denied them access to medical treatment.

867. By letter dated 30 August 2004, the Government informed that on 7 March 2004 at approximately 9 a.m., Curtis Greenwood and Jeffrey James fired guns at policemen in Morgan's Lane and then fled. Jeffrey James had earlier seriously shot and wounded a man. On 5 May 2004, a search was carried out in the Morgan's Lane Community of Spanish Town between the hours of 5 and 8 o'clock in the morning during which 23 persons were taken into custody, including Curtis Greenwood and Jeffrey James. Curtis Greenwood was held in custody at the Spanish Town Police lock-up until 18 May for a number of offences, at which time he was released on bail. In custody he was visited by his lawyer, relatives and friends. No complaints of abuse or denial of visits were ever lodged. He never complained of feeling ill or of being injured nor requested medical attention. He appeared in the High Court for the weapons charges on 21 May 2004 and the case was further postponed to 11 June, and he was released on bail. Jeffrey James was arrested on 6 May and remains in custody in relation to a number of offences. He has access to his lawyer and has received visits from friends and relatives. He has not made any complaint of abuse or unfair treatment. On 5 May at 6.30 a.m., as police attempted to arrest Robin Anderson at his home, he opened fire and was hit by return fire. He was rushed to the Spanish Town Hospital where he was pronounced dead. He was buried on 30 May, the delay due to the request of relatives and human rights advocates for a second post-mortem examination, which was carried out on 20 May. At no time did any member of the police threaten that Robin Anderson should not be buried; such threats would be pointless since legal and public health requirements dictate when he would have to be buried. There is no record of Otis Phillips reporting any instance of threats by a senior police officer.

Jordan

Urgent appeals

868. On 23 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Abdul-**

Hamid Yassin. According to the allegations received, he was arrested on 31 May 2004 in his home in Sweileh by the Intelligence Service Department. Since his arrest he has been detained incommunicado at the Intelligence Service Prison in Amman. The reason for his arrest is unknown. He has not been brought to a competent tribunal to be notified of the charges against him and to challenge the legality of his detention.

Follow-up to previously transmitted communications

869. By letter dated 23 March 2004, the Government provided information concerning **Ra'ed Muhammad Hijazi** (E/CN.4/2004/56/Add.1, para. 902). The Government reported that it complies with the provisions of the International Covenant on Civil and Political Rights and with international policy and standards relating to the imposition of the death penalty. Ra'ed Muhammad Hijazi's case is still being heard by a court of law, which will decide, in accordance with the laws in force, whether he has committed a crime and what penalty should be imposed. These laws do not contravene the terms of the above-mentioned international standards.

Kuwait

Urgent appeals

870. On 18 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Yasser al-Habib**, a 30-year-old writer, journalist and researcher. According to the allegations received, he is detained at al-Niyabah al-Ammah criminal investigation building. Mr. al-Habib collapsed during one of his interrogation sessions due to ill-health. Mr. al-Habib who has worked for several Arabic-language newspapers, including the monthly *al-Menbar* ("The Pulpit") was abducted by unknown individuals on a street in Kuwait City on the afternoon of 30 November and taken away in an unmarked vehicle. His family was not informed that he had been detained by security forces until the following day, and details of the charges against him have not been made known. According to reports, he is hospitalized but not allowed visitors.

871. On 11 February 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 the right to freedom of opinion and expression regarding **Yasser al-Habib,** cited in a previously transmitted communication (see above). According to the allegations received, he has been sentenced to a one-year prison term on 20 January 2004, convicted of "questioning the conduct and integrity of some of the companions of the prophet Muhammad" in a lecture he had delivered. Reports indicate that Mr. al-Habib suffers from asthma and stomach problems and is in frail health, and that he has reportedly been subject to several orchestrated violent attacks in prison. It is reported that Mr. al-Habib is appealing his sentence, and it is believed that his case may be considered for an amnesty on 25 February, Kuwaiti National Day, when the emir, Sheikh Jaber al-Ahmed al-Sabah, will declare clemency for some prisoners.

Kyrgyzstan

872. By letter dated 8 June 2004, the Special Rapporteur notified the Government that he had received information regarding **Mirlan Turatbekovich Boodaev**, a 23- year-old student of Jalalabad State University. According to the allegations received, he was arrested on 5 April 2004 in connection with a murder investigation, held in the offices of the criminal investigation department of the Jalalabad Interior Department, and was tortured by militia in order to extract a confession. He was stripped naked, beaten on the head, torso and back. The militiamen put a gas mask on him, which caused temporary suffocation. They threatened to insert a bottle up his anus. His head was struck, one ear was torn, and his body was covered with bruises. He was taken to a temporary detention facility on 6 April, and only saw his lawyer on 9 April. Mirlan Turatbekovich Boodaev's lawyer reported this case to Spravedlivost, which approached the regional prosecutor's office through the local Organization of Security and Cooperation in Europe representative's office, and requested a meeting. During the meeting, Mirlan Turatbekovich Boodaev told two employees from Spravedlivost, the deputy and assistant prosecutors, and the deputy chief of the Jalalabad Interior Department about the torture. Upon the attorney's intervention, Mirlan Turatbekovich Boodaev was examined by a doctor almost two months after the torture. The examination was reportedly superficial, without medical tests. The medical report of 19 May indicated only minor injuries. No treatment has been provided. Mirlan Turatbekovich Boodaev is still detained in the temporary detention facility.

873. By letter dated 3 August 2004, the Government informed that on 5 April 2004, Mirlan Turatbekovich Boodaev was detained by militiamen of the Jalalabad city Interior Ministry Department. On 6 April, a criminal case was opened against him. A lawyer was appointed for him, but he renounced the lawyer's services. The lawyer hired by Mr. Boodaev demanded a medical examination because of the injuries he sustained, allegedly from beatings by the militiamen during the first interrogation. This examination was approved by the investigator on the same day, 12 April, and found bruises close to the ear and hips, but concluded that these injuries did not constitute any serious damage to his health. The interrogators of Jalalabad city Interior Ministry Department deny having used violence against Mr. Boodaev. All interrogations were held in the presence of the lawyer. Concerning the alleged beatings, the prosecutors of Jalalabad region conducted an assessment in April and May 2004, which did not confirm that any beatings had taken place. Currently the criminal case against Mr. Boordaev and Myrzaev is under consideration of at Jalalabad city court.

874. By letter dated 30 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Larisa Vladimirovna Ivanova**, aged 53, Voznesenovka village, Panfilov rayon, Chui oblast. On 10 February 2004, she was arrested and detained at the Sverdlovskiy Regional Department of the Interior (ROVD), Bishkek, room 35, and the Chief Criminal Investigation Department of the Ministry of the Interior, rooms 243 and 244. In detention, in order to extract a confession, she was beaten by persons (whose names are known to the Special Rapporteur) with a stick and a flat instrument, a plastic bag was put over her head and she was choked, parts of her body were burned, she was subjected to mock executions, and deprived of sleep, food and water. She sustained injuries on her arms, legs and body, which were documented in a judicial medical examination carried out on 7 July. She was held incommunicado for three days from the date of her arrest, after which time she was visited by her husband. She is currently held in Pre-trial Facility No. 14.

Despite complaints filed with a number of courts (i.e. Leninskiy Regional Court, Bishkek City Court, the Supreme Court) and with all levels of prosecutors' offices (i.e. Sverdlovskiy and Leninskiy regions, Bishkek, and the General Prosecutor) no steps have been taken by the authorities to investigate the complaints.

Follow-up to previously transmitted communications

875. By letter dated 15 January 2004, the Government provided information concerning:

876. **Tursunbek Akunov**, **Sovetbek Tagayev**, **Kadyrkul Saparaliyev**, **Begaly Chetinbayev** and **Urkumbaev Satynay** (E/CN.4/2003/68/Add.1, para. 785). The Government informed that on 17 March 2002, some 700 villagers - some on horseback - from Kyzyl-Tuu, Kara-Suu, Kara-Zhygach, Avletim, Bospiek and Zherge-Tal in Aksyisk district, Jalal-Abad *duban*, set out for the local administrative centre of Kerben, supposedly to hold a rally in support of a Zhogorku Kenesh member, Mr. Beknazarov. Accompanied by 61 militia officers carrying firearms and special restraining devices, the following officials drove out to meet them: chief administrator of the district; deputy director of the *duban* internal affairs authority; the district procurator; the chief of the district internal affairs office; the chief of the *duban* internal affairs authority's criminal investigation department; the deputy speaker of the district assembly; and the chief of the district office of the National Security Service. At approximately 4.30 p.m., near the village of Bospiek, the citizens advancing towards Kerben were halted by the representatives of the local authority and the militia. The leaders of the district and *duban* authorities talked with the citizens in an attempt to dissuade them from proceeding to Kerben. However, attempts to reason with them proved fruitless. At this point Tursunbek Akunov arrived at the scene. When he appeared the demonstrators became quieter. He demanded to be given a megaphone to address the citizens, at which point he was arrested by militia officers. In response to this, some people in the crowd started to shout that they did not recognize the district leadership, they wanted to see representatives of the central Government. There were also calls for the militia officers to be disarmed. At the same time, people in the crowd started to throw stones at the district leaders and militia officers. The crowd advanced on the militia officers. The leaders of the district administration and the district procurator left the scene. Tursunbek Akunov was forcibly removed by car to the district internal affairs office. The bulk of the militia officers were forced back by the crowd but 15 officers of the Jalal-Abad special duties militia and the deputy chief of the Jalal-Abad Internal Affairs Authority were surrounded and hemmed in. Shots were fired from the crowd, and a special duties militiaman fell to the ground with a gunshot wound to the left leg. The militia then fired warning shots. The demonstrators dispersed, and Sovetbek Tagayev, Kadyrkul Saparaliyev, Begaly Chetinbayev, and Urkumbaev Satynay were left lying on the ground with gunshot wounds, and later died. The criminal investigations launched in connection with the events in Aksyisk district have established that no instructions or orders to use firearms were issued by the internal affairs authority, Ministry of Internal Affairs or other officials. The evidence gathered in the course of the investigations indicates that the internal affairs officers used firearms in the circumstances of an attack that endangered their lives and health. In addition, the officers did not shoot to wound. As the testimony of the militia officers and close study of video footage of the events near Bospiek indicates, even before the militia officers took any action some of the civilians present started to pick up stones, and when the crowd hemmed in the special duties militia officers and started to pelt them with stones, horseback riders bore down on the officers. In the circumstances, the lives

and health of the militia officers were in real danger, and there was also a risk that their weapons would be seized. Cartridges and cartridge cases from a small-calibre rifle, broken boules with traces of an incendiary mixture, strips of material used as fuses for Molotov cocktails and numerous stones found during the inspection of the premises of the district internal affairs office and the adjacent area bear witness that the attack on the district internal affairs office was real and highly dangerous. In addition, according to the expert opinions sought in the course of the criminal investigation, some of the bullets extracted from the bodies of the killed and wounded had struck the victims after ricocheting off a solid wall. These facts, the respective positions of the crowd and the internal affairs officers when weapons were fired, the size of the crowd and the number of persons killed and wounded by gunfire give reason to believe that the internal affairs officers did not shoot to wound. In the light of the foregoing, the investigation found that the internal affairs officers' use of firearms, both in the clash near Bospiek and when repulsing the attack by rioters on the building of the district internal affairs office, was legitimate.

877. **Baiysbubu Suiorkulova** (E/CN.4/2001/66, para. 678). The Government informed that in the period 13 to 22 March 2000 some citizens rallied on the square in front of the administrative headquarters of Kara-Buurinsk district in Talas *duban* (region). To all attempts to reason with them the demonstrators responded with foul-mouthed denigration of the authorities, threatening to seize the district administrative building and set it ablaze. A group of 100-150 individuals then entered the building, blockaded all the entrances and obstructed the conduct of normal business. On 22 March 2000 the Kara-Buurinsk Procurator's Office directed lawful measures to be taken to clear the premises and the surrounding area. Accordingly, on the same day senior officers from the Talas *duban* Internal Affairs Authority took steps to end the unauthorized rally and mass disruption of public order. The demonstrators were initially requested to desist, and warned that they would be held liable according to law. Despite this warning, they persisted in their unlawful course. Steps were then taken to disperse the unauthorized rally of around 110-140 individuals. Fifty-one demonstrators were detained and taken to Kara-Buurinsk district internal affairs office. Of these, 10 were placed in administrative detention for periods ranging from 7 to 10 days for violating articles 371 and 392 of the Kyrgyz Code of Administrative Offences. Three individuals were fined 300 soms each. Thirty-eight demonstrators were officially cautioned by the Kara-Buurinsk district procurator not to commit similar violations in future.

Lao People's Democratic Republic

878. 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 peoples and the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received 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 to 40 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.

879. By letters dated 19 October, and 10 and 18 November 2004, the Government informed 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, which purports to be the source of the allegations, was carefully analysed by the authorities, who found many conflicting points. The allegations did not match the contents of the film; among other things, there was no picture of the victims becoming mutilated, no evidence of rape, no evidence of a gun being used, no movement of Lao soldiers, few relatives of the victims were crying, and no word of any involvement of Lao soldiers or of where the incident had actually occured. The video was concluded to be a fabricated farce. Up to now no complaint has been brought to the Lao concerned authorities at any level, including the Commander-in-Chief of the Lao People's Army in the Xaisomboune Special Zone and the Governor of Xiengkhuang Province, both of whom are Hmong. The allegations of violations of human rights against the Hmong are fabricated with the aim of discrediting the good image of the Lao People's Democratic Republic in the international arena.

Urgent appeals

880. On 12 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Lorm Chalihom**, **Kham Sayavong**, **Som Sayavong**, **Sirina Samart**, **Visay Sayachak**, **Thongly Homneuan**, **Pharin Sayboonya**, **Seng Champa**, **Terv Phomthevi**, **Prasarn Rinthang**, **Seng Saybunya**, **Keobuathong Vongphacharn**, **Kaen Singkhomkhong**, **Naphar Phophibandith**, **Boonlord Khensookvan**, **Suang Sengsoura**, all Lao nationals. According to the allegations received, they were seeking asylum in Thailand and were forcibly returned to the Lao People's Democratic Republic on 4 July 2004. They are all members of a group opposed to the Government, which took part in an armed attack on the Lao Customs and Immigration offices in the border village of Vang Tao, Champassak province, on 3 July 2000. Six members of the group were killed in the attack, and the rest fled over the border into Thailand, where they were immediately arrested. They were charged with illegal entry and illegal possession of firearms. On 19 March 2002 they were sentenced to prison terms, which were reduced to time-served. They were released on 30 March 2002 into the custody of immigration officials in Bangkok. All had reportedly applied for asylum in Thailand in 2002, but access to UNHCR was repeatedly denied to them. The 16 men are now held in a prison in Champassak province. Reports indicate they will be tried for "robbery and using weapons of war in the robbery", for which they could face long prison terms.

881. By letter dated 24 August 2004, the Government informed that following their arrest, all the 16 accused persons have been held in a pre-trial detention camp of Champassak Province. At this stage, the authorities have been conducting investigation and interrogation on the basis of legal procedures, while making sure that the accused can receive assistance from lawyers; this aimed at ensuring fair proceedings for them, equally to the case of other Lao citizens. The Government confirmed that the authorities provided the persons with good physical and mental treatment, in accordance with the humanitarian policy of the Government, domestic rules of law, as well as international principles. All 16 persons have received health check-ups, clothes, personal items, and food, adequate and suitable to the actual situation and conditions of the local area. In addition, their relatives may receive permission to make visits and enquiries in accordance with the regulations of the pre-trial detention camp.

Lebanon

882. Par lettre en date du 30 avril 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels un rassemblement pacifique en faveur de la libération de prisonniers libanais détenus en Syrie, organisé le 7 avril 2004 à Beyrouth, aurait été dispersé de façon violente. Près de 500 personnes, dont des étudiants, des familles de détenus et des représentants d'organisations non gouvernementales, se seraient réunies dans la matinée du 7 avril 2004 à l'initiative du Comité des familles de détenus libanais en Syrie et de SOLIDE (Support of Lebanese in Detention and Exile). Selon les informations reçues, l'organisation de ce rassemblement avait été annoncée deux jours plus tôt lors d'une conférence de presse. Ce rassemblement visait à soutenir la délégation qui devait se rendre au siège de la Commission économique et sociale des Nations Unies pour l'Asie occidentale à Beyrouth, afin de déposer une pétition lancée par différents mouvements étudiants demandant la libération de quelque 200 Libanais qui seraient détenus en Syrie. Plus de 10 000 signatures avaient été recueillies en ce sens. Toutefois, il semblerait que les participants aient été violemment dispersés par l'armée qui aurait notamment utilisé des lances à eau. Plusieurs d'entre eux auraient été frappés au moyen de matraques, y compris des personnes âgées, ainsi que **Ghazi Aad**, responsable de SOLIDE, dont la chaise roulante aurait été cassée. Au moins un étudiant aurait été transporté à l'hôpital. La délégation n'aurait pas pu se rendre au rendez-vous qui lui avait été fixé avec un fonctionnaire des Nations Unies chargé des droits de l'homme.

883. Par lettres datées des 16 et 26 juillet 2004, le Gouvernement a transmis aux Rapporteurs spéciaux la réponse de la Direction générale des forces de la sécurité intérieure. Selon cette direction, les personnes arrêtées en vertu de la loi pour avoir porter atteinte à la sécurité, ou pour avoir commis des infractions ne sont pas soumises à la torture. Toutes les méthodes utilisées par les forces de l'ordre pour prévenir la commission d'infractions sont les mêmes que dans tout autre Etat et ne violent pas le droit à la liberté d'opinion et d'expression. Les forces de sécurité exercent leurs fonctions avec sérieux, discipline et compétence.

Urgent appeals

884. On 16 January 2004, the Special Rapporteur sent an urgent appeal concerning the reported imminent execution of **Ahmad 'Ali Mansour**, **Badea' Waleed Hamada** and **Remi Antoan Za'atar**. According to allegations received, the executions are due to take place at Roumieh prison in Beirut on 17 January 2004. According to the information received, Ahmad 'Ali Mansour is to be executed by hanging while Badea' Waleed Hamada and Remi Antoan Za'atar are to be executed by firing squad. If these executions take place as scheduled, they will reportedly be the first since the President took office on 24 November 1998.

Liberia

885. By letter dated 5 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Bernard Warity**, Deputy Information Minister for Administration in the National Transitional Government of Liberia. According to the allegations received, at 6 p.m. on 4 July 2004, a traffic accident occurred between his car and

the jeep of the Police Director. Bernard Warity was dragged out of his car and beaten by a group of police officers, allegedly on the orders of the Police Director. Bernard Warity sustained bruises on his body and was treated at the St. Joseph Catholic Hospital in Monrovia.

Libyan Arab Jamahiriya

Urgent appeals

886. On 7 May 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding **Kristiana Malinova Valcheva**, **Nasya Stojcheva Nenova**, **Valentina Manolova Siropulo**, **Valya Georgieva Chervenyashka** and **Snezhanka Ivanova Dimitrova**, five Bulgarian health professionals, and **Ashraf Ahmad Jum'a**, a Palestinian doctor. According to the allegations received, they were arrested in December 1998 and accused of deliberately infecting 426 children with the HIV virus, while working in al-Fateh Children's Hospital in Benghazi. For the first 15 months of detention, no information was disclosed on the reason for their arrest, and the first hearing was held in February 2000 without the Embassy of Bulgaria being informed. They have been sentenced to death by firing squad by the Benghazi Criminal Court on 6 May 2004. In the same trial, **Zdravko Marinov Georgiev**, a sixth Bulgarian defendant, was sentenced to four years' imprisonment and nine Libyan doctors were acquitted. The foreign medical professionals' confessions, which they later retracted, were extracted through torture, including extensive use of electric shocks, being suspended from a height by the arms, blindfolded and threatened with dogs, beatings, especially on the soles of the feet (falaga), and beaten with electric cables. On the basis of the allegations of torture, eight members of the security forces, a doctor and a translator were charged in connection with the torture. They reportedly faced trial alongside the above-named health professionals before the same criminal court in Benghazi. However, on 6 May 2004 the Benghazi Criminal Court eventually pronounced that it was not competent to examine their cases. It is not clear whether those charged in connection with the torture of the health professionals will be tried.

887. By letter dated 10 December 2004, the Government informed that the accused persons were charged with causing the spread of an infectious disease by injecting 393 children, which led to the deaths of 23 children; and using lethal substances to commit deliberate murder. These actions are offences punishable under articles 305 to 327 and 371 of the Penal Code. They were informed of the charges against them as soon as they appeared before the Department of Public Prosecutions. It makes no sense to assert that the charges against them did not refer to the most serious crimes, as defined in the resolutions of the Economic and Social Council or the Commission on Human Rights or in other relevant United Nations resolutions, which restrict the imposition of the death penalty to only the most serious crimes. The least one can say about this crime is that it is a crime of genocide which contravenes all international treaties, conventions and legal norms, as well as humanitarian principles. The trial of the accused persons before the Benghazi Criminal Court lasted 10 months, which is not a period short enough to warrant it being characterized as a summary or an arbitrary trial. The accused persons were afforded all the safeguards provided for in article 14 of the International Covenant on Civil and Political Rights and in the relevant United Nations resolutions to ensure the right to a fair trial: the right to a defence, the right to the services of an interpreter and the right to call expert witnesses. The trial was conducted in public in the presence of journalists, diplomatic and consular staff and members of NGOs.

The accused persons were represented in court both by a Libyan lawyer and a Bulgarian lawyer. They were guaranteed all the rights to a defence which are required to ensure a fair trial, namely access to the case files, the right to have the witnesses and experts examined, the right to present legal arguments during every session of the trial and the right to communicate with their lawyers. After the defence had exercised all its legal rights, the court suspended the case until sentencing. It pronounced its verdict at a public session held in April 2004. It sentenced the accused persons to death on the above-mentioned charges, which refer to acts that are designated as crimes under the Penal Code. Thus, neither the offences nor the penalty can be said to have been created retroactively. The lawyers for the accused appealed to the Supreme Court against the verdict handed down by the Benghazi Criminal Court. In accordance with the Code of Criminal Procedure, the Supreme Court must review court judgements and either uphold them, if it finds them to be sound, or quash them, if it does not. The accused persons will be represented before the Supreme Court by two Bulgarian lawyers, an Egyptian lawyer and a Libyan lawyer. While they were being held in pre-trial detention, the accused persons were afforded all the rights to which they were entitled under the Code of Criminal Procedure and the Prisons Act and its implementing regulation. Embassy and consular staff from their country met with them on a number of occasions and they received the visit of the Bulgarian Minister for Foreign Affairs and representatives of NGOs, imcluding Amnesty International. They also had interviews with their lawyers and visits from Bulgarian medical staff and from Italian consular representatives, to name but a few. The accused persons claimed that their confessions had been extracted under torture. The investigating authorities looked into those claims and the accused persons were given medical examinations. At the same time, some police officers who had been accused of torture were questioned and were arraigned before the Benghazi Criminal Court. Having reviewed the charges against the police officers, the Court determined that it did not have competence to rule on the matter, since the offence had not been committed within its jurisdiction. (It had allegedly occurred in Tripoli.) The Department of Public Prosecutions intends to refer the police officers to the Tripoli Criminal Court, since it has competence for hearing the case against them.

888. On 30 July 2004, the Special Rapporteur sent an urgent appeal with respect to allegations received concerning **at least 200 Eritrean nationals**. They are currently detained incommunicado in detention centres throughout the country, including in Kufra, Misrata, Tripoli, and are at risk of torture and imminent forcible return to Eritrea. Most are believed to have either deserted from compulsory military service or evaded conscription. On 21 July 2004, over 110 Eritrean nationals were forcibly returned to Eritrea. They were taken to the remote Gelalo prison in eastern Eritrea, where conditions are reported to be harsh. It is reported that about 40 of those returned on 21 July were arrested in a street round up in Tripoli in connection with suspected drug and alcohol-related offences, and were convicted and deported the same day. At least another 40 had been detained longer in detention centres in Misrata and Tripoli, apparently for illegal entry. Others in the group were detained since June, when the boat in which they were attempting to reach Italy was forced back by bad weather.

889. By letter dated 8 November 2004, the Government informed that the deportation of a number Eritrean nationals was carried out in accordance with laws regulating the presence of aliens, following an increase in the number of crimes (drug smuggling, prostitution, fraud, begging, murder, theft, forgery, illegal immigration to Europe) committed by these persons,

most of whom were suffering from serious infectious diseases. While the Government reaffirms its commitment to international conventions, particularly the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which it ratified in 1989, it points out that the Eritrean nationals who were deported were not asylum-seekers or refugees, who would have been entitled to exemption from such a measure. They had entered the country for the sole purpose of illegally immigrating to Europe and most of them were arrested for committing criminal offences. Hence, their deportation to their country of origin was carried out in accordance with law. With regard to granting temporary asylum status or the repatriation of such persons, the law does not authorize such procedures. The Office of the United Nations High Commissioner for Human Rights or the Special Rapporteur on torture will be able to check directly with the Government of Eritrea that when the deported Eritreans returned to their country they were guaranteed protection against inhuman treatment. As for the prolonged periods which some of the persons awaiting deportation have spent in detention centres, this is due to the failure on the part of the Embassy of Eritrea in Tripoli to proceed with the prompt issuance of travel documents for the prospective deportees.

890. On 22 September 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 independence of judges and lawyers, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to health regarding **Fathi al-Jahmi**, his wife **Fawzia 'Abdullah Gogha**, and their eldest son, **Muhammad Fathi al-Jahmi**. According to the allegations received, they were taken from their home in Tripoli by the authorities on 26 March 2004. Their arrest was linked to several media interviews given by Fathi al-Jahmi, including to the Arabic channel *al-Hurrah*, based in the United States, and to the Dubai-based Arabic channel *al-'Arabiya*, in which he called for reform in the country. After the interviews, basic services to his house such as his telephone connection were suspended. No charges were brought against him. The authorities claimed that he is being held for his own protection because of public outrage generated by his media interviews. Since their arrest, Fathi al-Jahmi, his wife and eldest son have been denied access to the outside world, including to lawyers, relatives and doctors. It was reported that Fathi al-Jahmi is in poor health and requires medical treatment.

891. On 8 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to health, regarding **Fathi al-Jahmi** and his wife **Fawzia 'Abdullah Gogha,** cited in a previously transmitted communication (see above). According to the allegations received, they are still in detention and have not been charged with a criminal offence. Their families have received no confirmation of their exact whereabouts. Furthermore, it is reported that Fathi al-Jahmi's health continues to be poor. He is said to suffer from diabetes, high blood pressure and a heart disease for which he has had surgery. It is reported that he has not received any medical treatment since the beginning of his detention.

Malawi

892. By letter dated 2 July 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations concerning six journalists, among them **Raphael Mwenenguwe, George Ntonya**, reporter with *The Nation* newspaper, and **Chikondi Phikiso** from the

Malawi Broadcasting Corporation. On 18 October 2003, officers of the Malawi Police Service beat up six journalists for attempting to take photographs of a scuffle between police and a motorist at a police roadblock on Zalewa Road, between Blantyre and Mwanza districts. The police allowed the journalists to photograph the incident until their officer-in-charge arrived at the site and assaulted George Ntonya, grabbing him by the neck and dragged him around. The policemen joined and beat up the journalists, using batons and the butts of their guns. They also scratched Chikondi Phikiso's chest with the butts of their guns while insulting her.

893. By letter dated 29 October 2004, the Government informed that a disagreement between police officers, led by the officer-in-charge, and the journalists erupted over the motive of the latter's involvement in the incident. The issue was amicably resolved, with the journalists apologizing for their actions and the police were remorseful for overreacting. No legal action was taken by the victims due to the triviality of the matter and probably their direct involvement in the conflict. The Police Service instituted its own investigation, after the matter was taken up by *The Nation* and *Radio One* of the Malawi Broadcasting Corporation. The police said no action could be taken against the officers apart from issuing a strong warning, because there was no formal complaint. When the police contacted the journalists to inquire whether they would like to pursue the case, they showed no interest in doing so.

Malaysia

894. By letter dated 2 March 2004, the Special Rapporteur notified the Government that he had received allegations concerning approximately 100 detainees held under the Internal Security Act (ISA), including **Shukry Omar Talib, Muhamad Faiq Hafidh, Shahrial Sirin, Mohammed Kadar, Abdullah Daud, Muhamad Ismail Anuawarul, Ahmad Yani Ismail, Abdul Samad Shukri Mohd, Abdul Razak Baharudin, Mohd Sha Sarijan, Ahmad Sajuli Abd Rahman and Suhaimi Mokhtar**. They were arrested for alleged connections to Jeemah Islamiyah, which is allegedly linked to Al-Qaeda. Some of them have been held without charge or trial for more than two years. It is alleged that these detainees are subjected to solitary confinement, threats, and mental and physical intimidation after their arrest. According to their relatives, there is evidence of physical abuse against some of them. It is also reported that they have limited access to counsel. Furthermore, at least 20 of the persons held without trial have had their detentions extended for an additional two years. Relatives of the so-called "ISA detainees" allege that security officials have promised the detainees they would be released earlier if they would not challenge their detention in court or speak to the media or human rights groups about their situation.

895. By letter dated 2 July 2004, the Government responded that the Internal Security Act 1960 is an Act passed by the Parliament of Malaysia to "provide for the internal security of Malaysia, preventive detention, the prevention of subersion, the suppression of organized violence against person and property in specified areas of Malaysia, and for matters incidental thereto." ISA was enacted in order to ensure that Malaysia's well-being and security is protected and its economic stability maintained. Arrest and detention under the ISA is empowered by sections 8 and 73 of the Act. The detention itself is governed by the Internal Security (Detained Persons) Rules of 1960, which outlines the guidelines for the human treatment of detainees under the ISA. Individuals detained under the ISA are deemed to be a threat to national security and public order, which necessitates the immediate removal of their

presence from society. Investigations are then carried out on their alleged activities, which involves delicate balancing and in-depth inquiry. However, the Government stresses that at no time during these investigations are detainees subjected to cruel, inhuman or degrading treatment. The individuals referred to were arrested for their membership in the Jemaah Islamiyah, an organization with links to the Al-Qaeda terrorist organization.. The authorities took all due necessary precautions available under the law to ensure that untoward incidents did not occur in Malaysia and militant teachings were not spread throughout the country and region. In the pursuit of these noble goals, the rights of the community and public order are of paramount importance. The claim that security officials have promised the detainees that their release was conditional upon their silence is totally unfounded. The detainees will be released once the authorities are satisfied that they would no longer present a threat to security and public order.

896. By letter dated 13 May 2004, sent jointly with the Special Rapporteur on the human rights of migrants, the Special Rapporteur notified the Government that he had received allegations concerning **Muhammad Iqbal**, a Pakistani national. In possession of a work permit, he succeeded in a claim for wrongful dismissal against his employer. However, the employer refused to compensate him and the case was then referred to the Secession Court for enforcement. Pending this, Muhammad Iqbal was issued a special pass, to be renewed on a monthly basis by the Immigration Department. Since December 2002, the Immigration Department has refused to extend it because Muhammad Iqbal was not sponsored by a Malaysian, which rendered him undocumented. On 9 September 2003 he was arrested by Immigration officers in Kota Bahru, brought to trial on 27 September 2003, convicted for violations of immigration laws, and sentenced to four months' imprisonment and three strokes of the rotan.

897. By letter dated 23 August 2004, the Government informed that since the end of 2002, the Immigration Department could no longer extend the special pass granted to him since he was no longer in gainful employment and had no foreseeable means of supporting himself in the country without a sponsor. On 10 September 2003, he was detained under s. 6(1)(c) of the Immigration Act 1959/1963 concerning illegal entry into the country. Muhammad Iqbal chose to be charged in court, even though he was given the opportunity to pay a fine, he entered a guilty plea, and refused a lawyer. He was sentenced to four months' imprisonment and two strokes of the rattan. While serving his sentence, he appealed to the High Court of Kota Bharu, however this time he was charged on 7 February 2004 under s. 15(1)(c) of the Act, concerning overstaying the special pass. He was sentenced to three months' imprisonment, appealed, but he later pleaded guilty on 25 July and was sent to the Pengkalan Chepa Prison. He is currently appealing to the High Court for a review of the sentence passed on 25 July.

898. By letter dated 21 July 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning **Mageswaran Ramasamy**, aged 29. He was found hanging in the toilet of the Petaling Jaya Police Headquarters on 17 June 2004. That day, He had gone to the Police Headquarters that day to file a report, and his body was discovered in the toilet seven hours later, at about 10 p.m. Reports indicate that there was a wound about one inch long on his lower right abdomen, which had been stitched up. Rapidly, the Assistant Commissioner of Police publicly stated that there was no murder and that this

was a case of suicide. Therefore, no investigation was undertaken to explain the suspicious circumstances of Mr. Ramasamy's death. On 2 July 2004, a joint memorandum was submitted to the Inspector General of Police by eight NGOs, calling for an immediate independent and impartial investigation and a post-mortem. The group also called for the immediate suspension of the Assistant Commissioner of Police and other police officers suspected to be involved in this event.

899. By letter dated 18 August 2004, the Government informed that on 17 June 2004, a body was found in a locked public toilet next to the canteen and police lock-up at approximately 10.40 p.m., and not in the toilet of the police station. The body was discovered by a factory clerk and a canteen employeef who had scaled the toilet wall after receiving no response from within the toilet. The body was found lying face down with a rubber hose around the neck. A pathologist from the Universiti Malaya Medical Centre and a magistrate were dispatched to the scene. The alleged wound on his right lower abdomen was an incision made by the coroner during the autopsy and was detailed in the coroner's report. The report confirmed hanging as the cause of death.

Urgent appeals

900. On 6 February 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 extrajudicial, summary or arbitrary executions, regarding **Sofyan Jalil** aged 30, **Muhammad Yusuf**, aged 35, **Yunus**, aged 45, **Darmadi**, aged 44, **Abdullah**, aged 32, **Kamaruddin**, aged 35, **Ilyas**, **Marzuki**, **Safwadi**, **Dek Gam** , aged 18, **Maskur**, **Andri Usman**, aged 20, **Jal**, **Azmi**, aged 36, **Salim**, **Muhammad Ali**, **Tarmizi Husain**, aged 24, **Azhari**, aged 23, **MaWardi**, aged 28, **Asri**, aged 28, **Fikran**, aged 23, **Nazar**, aged 32, **Fuadi**, aged 28, **MaWardi**, aged 34, **Hanafiah**, aged 24, **Muhammad**, **Muji**, aged 28, and **Fitra**, aged 24, **Syarifah**, aged 30, **Khalidah**, aged 25, and **Nurul**, aged 25. According to the allegations received, they were among a group of 40 asylum-seekers from Aceh arrested by the Malaysian Police on 25 January 2004 during a raid on a migrant community shelter in Kampung Sungai Nibong, Penang and held at the Balai Polis Bayan Lepas "lock-up" and Balai Polis Balik Pulau "lock-up", on the island of Penang. Asylum-seekers who are sent back reportedly face significant risks to their personal integrity. While in Malaysia, they could also be charged under the 1967 Immigration act and sentenced to five months' imprisonment as well as flogging. None of the detainees were registered with UNHCR.

Follow-up to previously transmitted communications

901. By letter dated 17 December 2003, the Government provided information concerning **Ahmad Muaz Ali Bakry**, **Mohamed Amin**, **Mohamed Ikhwan Abdullah**, **Abu Bakar Mohamed Radzi Abdul Razak**, **Ahmad Firdaus Kamaruddin**, **Shahrulnizam Hamzah**, **Mohamed Akil Abdul Raof**, **Edi Irman Shaari**, **Mohamed Faiz Kamarulzaman**, **Nurul Mohamed Fikri Mohamed Safar**, **Mohamed Arifin Zulkamaen**, **Abidzar Jaafar**, and **M. T. N.** (E/CN.4/2004/56/Add.1, para. 968.). The Government informed that they were detained on 10 November 2003 under section 73(1) of the Internal Security Act (ISA) upon their arrival in Malaysia. They had earlier been detained in Pakistan for 50 days for suspected links with the militant group Jemaah Islamiyah. On 24 November 2003, four of the individuals (Ahmad Muaz Ali Bakry, Mohammed Amin, Ahmad Firdaus

Kamaruddin and M. T. N.) were released. Shahrulnizam Hamzah, Mohammed Faiz Kamarulzaman, Nurul Mohammed Firki Mohammed Safar and Mohammed Ariffin Zulkarnaen were freed on 10 December 2003, but placed under a Restricted Order for two years, in accordance with section 8(5) of the ISA. The remaining five individuals have been issued with two-year detention orders under section 8 of the ISA, and are currently being detained at the Kamunting Detention Camp in Perak. The family members of those detained under the ISA are allowed access to the detainees at a date and time prescribed by the authorities. Their rights, as guaranteed by the Federal Constitution, remain inviolable, regardless of whether they are detained under the ISA or under any other Act of Parliament.

902. By letter dated 17 December 2003, the Government provided information concerning **eight asylum-seekers from NAD province**, Indonesia (E/CN.4/2004/56/Add.1, para. 969). The Government informed that the communication did not contain sufficient information to identify the detainees who were allegedly mistreated by the camp guards, and therefore an investigation would not be possible.

903. By letter dated 9 January 2004, the Government provided information concerning **Saudara Udayakumar** (E/CN.4/2004/56/Add.1, para. 958). The Government informed that on 16 January 2003, stemming from reported threats he made to a witness, Mr. Udayakumar was arrested under section 506 of the Penal Code for criminal intimidation. He was also arrested under section 228 of the Penal Code for intentional insult or interruption to a public servant in any stage of a judicial proceeding. Mr. Udayakumar was charged at the Sepang Magistrate Court on 21 January 2003. For the offence under section 506 of the Penal Code, the Court handed down a decision of discharge not amounting to an acquittal. There is currently an appeal by the Attorney General's office for a fresh hearing of the case. The charge under section 228 of the Penal Code was withdrawn by the Attorney General. Mr. Udayakumar has been given access to counsel and has been tried in court according to the due process of law. At no time was he arbitrarily deprived of any of his rights as guaranteed by the Federal Constitution, nor was he held incommunicado pending trial of his case.

Maldives

904. By letter dated 13 May 2004 sent jointly with the Special Rapporteur on the human rights of migrants, the Special Rapporteur notified the Government that he had received allegations concerning **Rajan, Saravanan** and **Kamal**, three Indian nationals in possession of work permits, working in Malé. On 8 April 2003, they were arrested and charged with the rape and murder of a woman. The three men were subjected to physical ill-treatment in detention. Saravanan was forced to sign a confession despite his demands for a forensic examination, and he was then beaten to death in custody. It is reported that the three men did not understand the local language, and the assistance of a translator or an interpreter was not provided.

905. By letter dated 29 November 2004, the Government responded that there were inconsistencies in the alleged facts. Mr. Saravanan was taken to Maafushi Jail on 19 August 2002, and the jail office was informed that he had attempted suicide twice while he was under interrogation. Based on this information he was handcuffed and kept alone in a cell. The two other Indians were taken to jail and kept in single cells and were handcuffed. On 8 April 2003 at around 10.30 p.m., the Quick Reaction Force in Maafushi Island informed the police

headquarters that one of the prisoners was found hanging in his cell. A team of doctors from the N.S.S. Medical Centre and a team of investigators were dispatched. The team found Mr. Saravanan hanging at the rear side of the cell by his bed sheet, which he wound into a cord. A medical examination showed that there were injuries to the front and right side of his neck and that the probable cause of death was strangulation. His family was informed of his death and he was buried. With regard to the allegation that the defendants were not provided with a translator, during the investigation their statements were read to them in Tamil and were signed and finger printed with their understanding and consent. Their trials are open, they are entitled to legal advice, and consular officials are informed of the hearings.

Urgent appeals

906. On 18 August 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning **Fathimath Nisreen**, her brother **Mohamed Niyaz**, **Ahmed Ibrahim Didi, Mohamed Zaki**, his son **Muad Mohamed Zaki**, **Maria Manike**;,**Ibrahim Hussain Zaki**, and **Mohamed Monawar**, a former Attorney General, and both members of the Citizens' Majlis (Parliament); and **Ibrahim Ismail, Ghasim Ibrahim, Ali Faiz, Hussain Rasheed, Ilyas Hussain Ibrahim**, members of the Special Majlis (parliamentary committee). According to the allegations received, they were taken to police headquarters in Malé for interrogation after they took part in large demonstrations asking for democratic reforms on 12 and 13 August 2004. Several were reportedly beaten when they were arrested and are held incommunicado. Fathimath Nisreen and Ahmed Ibrahim Didi, who were already under house arrest at the time they were detained, left their houses and briefly joined the demonstrators but returned to their homes before they were taken into police custody. Mohammed Zaki, who was also under house arrest, did not leave his home during the demonstrations. Fathimath Nisreen, Ahmed Ibrahim Didi, Mohamed Zaki were cited in previously transmitted communications (E/CN.4/2004/56/Add.1, paras. 970 and 971). Among those arrested, Maria Maniké had been voicing her concern at the slow pace of the trial of those involved in the killing of her son, who was beaten to death by guards at Maafushi prison in September 2003.

907. By letter dated 23 September 2004, the Government informed that during the early evening of 12 August 2004, a crowd had gathered at the 'Jumhooree Maidhaan' opposite the police headquarters in Malé. They demanded the release of some convicted criminals and some individuals who had been detained for questioning. The Government released the detainees expecting the crowd to disperse peacefully. However, the crowd refused to disperse and kept making demands that were impossible to meet. For over 17 hours, National Security Service personnel acted with restraint, advising the crowd to disperse. However, the crowd degenerated into a mob and turned increasingly violent, stabbing two unarmed policemen, torching a Government building and eventually attacking the police headquarters, compelling the National Security Service personnel to step in to disperse the mob and restore order and public safety. A state of emergency was declared, and some rights of the detainees remain suspended under it. The Government hopes to lift it as soon as possible and assures that the detainees are being treated humanely. A European Union fact-finding mission visited the Maldives in August 2004 and met with seven of the detainees mentioned in the letter. Representatives of the National Human Rights Commission have also visited them. The Government is proceeding expeditiously with the investigation of the detainees who will

either be charged or released, depending on the outcome of the investigation. Court proceedings of those involved in the Maafushi prison incident and the riots in Malé in September 2003 are presently underway.

908. On 6 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers concerning Ms. **Jennifer Latheef**, a television company employee, and Mr. **Ismail Asif,** a video film producer, both of whom have been working to draw attention to human rights concerns. According to the allegations received, Jennifer Latheef, who has worked on the prevalence of sexual abuse in the country, was arrested in front of the National Security Services (NSS) on the 13 August 2004, as authorities broke up a demonstration with baton charges and tear gas. She was denied access to family members until 17 September 2004. During her detention, the police kicked her in the back numerous times while she was blindfolded. She is said to be still currently detained at the Dhoonidhoo interrogation centre. It is reported that she had already been detained on 22 September 2003 for having taken part in a protest regarding the killing of Evan Naseem on the 19 September 2003 and the killing of three other prisoners and fatal injury of others on 20 September 2003 in Maafushi Jail.

909. Ismail Asif, who is also an activist for the political opposition, was arrested at his home at around 10 p.m. on 17 September 2004. He is reportedly being held without charge and not allowed access to a lawyer. He was arrested because of his involvement in a civil society network that monitors the conditions of detention of those arrested following the August demonstrations.

910. By letter dated 27 October 2004, the Government informed that they were arrested in connection with an investigation into the mob violence of 12 and 13 August 2004. Jennifer Latheef was arrested on 13 August 2004. The investigation has been completed and she has been placed under house arrest on 26 October 2004, and the Government will file charges against her shortly. Ismail Asif was arrested on 17 August 2004, and his arrest has nothing to do with his involvement in a civil society network that monitors the conditions of detention of detainees. He is still under detention as the investigations are not complete. As soon as they are completed, he will be charged or released. In the event that charges are brought against them, they would be provided with a fair and impartial hearing.

911. Cells in Dhoonidhoo Detention Centre are designed to accommodate individual detainees. While in detention, they are provided with the right to family visits and regular exercising time. They are also provided with reading and writing materials and are allowed visits from their lawyers. The detention centre has a 24-hour medical service. Medical reports of the detainee can be given to the family and the detainee himself upon request. Specialist doctors and psychiatrists regularly visit the facility, according to the needs of the detainees and as requested by the medical staff of the centre. Upon release the detainee is provided with a copy of the file including the medical reports. Some amount of excessive force was used during the dispersal of the mob and in arresting some elements involved. There are also some alleged incidents of physical abuse during detention. The Government has instructed the Human Rights Commission of the Maldives to investigate these allegations and to report to the Government. The Human Rights Commission has decided to conduct an open hearing of

the alleged physical abuses. Once the Government receives the findings of the Commission, the Government will take legal actions against the concerned parties. Copies of the letters of the Special Rapporteurs have been forwarded to the Commission.

912. 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 the right to freedom of opinion and expression regarding Mr. **Mohamed Yoosuf**, a political activist. According to the allegations received, on 13 August 2004 at about 10.45 p.m. he was arrested at his home by the police. Mr. Mohamed Yoosuf was transferred to the Dhoonidhoo Detention Facility seven days after his arrest and has been placed in solitary confinement since. On 11 September 2004, he was taken to a hospital for an X-ray. He informed visitors at the hospital that he was frequently tortured while being handcuffed and blindfolded, and that, as a result of torture, he sustained injuries to his back. On 16 September, during a visit by his family at the Dhoonidhoo Detention Facility, he told them that after his hospital visit he was handcuffed for about a week, and kept blindfolded for two days. Mr. Mohamed Yoosuf said that he was hit on his back severely, and remained handcuffed and blindfolded while eating, praying and using the toilet. He also mentioned that prison officials stepped on him to prevent him from falling asleep. During the family visit, the police were present and tape-recorded their conversation. Mr. Mohamed Yoosuf was brought for further medical attention on 7 October 2004. The family's request for an independent medical assessment was denied by the authorities. Except for these three occasions, Mr. Mohamed Yoosuf has been held in incommunicado detention. Mr. Mohamed Yoosuf's arrest is believed to be related to his signature of a petition calling for the establishment a political party in the Maldives. His arrest took place in the context of police action against large demonstrations in Malé asking for democratic reforms on 12 and 13 August 2004.

913. By letter dated 27 October 2004, the Government informed that he was arrested in connection with an investigation into the mob violence of 12 and 13 August 2004. He was arrested on 13 August, and his arrest has nothing to do with his signing a petition calling for the establishment of a political party in the Maldives. He is still under detention as his investigations are not complete. As soon as they are completed he will be charged or released. In the event that charges are brought against him, he would be provided with a fair and impartial hearing.

Mauritania

914. Par lettre en date du 27 mai 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels **Moctor Diallo**, connu aussi sous le nom de **Oumar Ould Abdoullah**, un homme âgé de 25 ans, qui se trouvait en détention préventive au commissariat de police de la ville de Kaédi depuis le 6 septembre 2003 pour présomption de vol, serait décédé le 13 septembre 2003 à ce même commissariat, vraisemblablement des suites de torture, son cou ayant été brisé. Le médecin chef de l'hôpital de Kaédi qui aurait constaté son décès aurait également fait part de nombreuses blessures sur le corps du défunt et aurait demandé au juge d'instruction de faire venir un chirurgien spécialiste pour constater les causes internes du décès. Il aurait été enterré par la police le 14 septembre 2003, sans que la famille en ait été avisée. Ce même jour, le juge d'instruction près du tribunal de Kaédi aurait refusé l'exhumation du corps pour une autopsie. Les autorités

judiciaires et policières de la wilaya de Gorgol auraient expliqué la mort de Moctor Diallo par le fait qu'il se serait lui-même cogné contre un mur de sa cellule. Cependant, le médecin mentionné ci-dessus n'aurait rien signalé au sujet de blessures à la tête. Le juge d'instruction aurait aussi déclaré à la sœur du défunt qu'il s'était présenté au poste de police mais qu'il n'avait pas pu constater la cause du décès car le corps se trouvait dans l'obscurité. Le commissaire aurait dit à la sœur de Moctor Diallo qu'il lui remettrait les habits et la montre de son frère pour 300 ouguiya. Une plainte aurait été déposée auprès du Procureur général près de la Cour suprême. Le procureur de la République de Kaédi aurait déclaré que, d'après les différents témoignages des codétenus et des agents de police, Moctor Diallo était décédé d'une mort naturelle, et que par conséquent il envisageait de classer l'affaire sans suite.

Urgent appeals

915. On 13 October 2004, the Special Rapporteur sent an urgent appeal, concerning **Abderrahmane Ould Mini**, **Moustafa Ould Cheibany**, **Cheikh Ould Abdallahi**, **Dahanna Ould Sidi Mahmoud Ould Salah**, **Amar Ould Amar Jowda**, **and at least 10 other persons**. According to the allegations received, on 25 September 2004, they were arrested by police in Nouakchott on suspicion of involvement in an alleged coup. They have been held incommunicado since their arrest. Abderrahmane Ould Mini was reportedly tortured.

916. Par lettre datée du 2 novembre 2004, le Gouvernement a informé que ces personnes faisaient l'objet d'un mandat d'arrêt international et avaient été inculpées d'attentats ayant pour but de détruire, changer le régime constitutionnel avec usage d'armes, prise de commandement militaire sans droit ni motif légitime, usage de bandes armées pour troubler l'Etat avec complot. Le Gouvernement a par ailleurs indiqué que l'intégrité de ces personnes était pleinement respectée et qu'elles bénéficieraient d'un procès équitable.

Mexico

917. Por carta de fecha 27 de mayo de 2004, el Relator Especial, juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, notificó al Gobierno que recibió información según la cual **Horacio Zacarías Barrientos Peralta**, un campesino de la comunidad de La Florida, municipio de Atoyac de Alvarez, Estado de Guerrero, habría fallecido el 28 de noviembre del 2003 por la tarde, cuando un grupo de aproximadamente cinco personas no identificadas le habrían disparado 15 veces. Los hechos habrían ocurrido cuando Horacio Zacarías Barrientos Peralta se encontraba trabajando en su parcela y a menos de 24 horas que el Juzgado Cuarto Penal del Distrito de Acapulco librara la primera orden de aprehensión en contra de uno de los represores de la llamada "guerra sucia", un ex comandante de la Policía Judicial. De acuerdo con la información recibida, Horacio Zacarías Barrientos Peralta habría sido víctima y a la vez testigo presencial de la detención, tortura, ejecución y desaparición de campesinos en los años 1970, en acciones supuestamente realizadas por el ejército y la policía mexicanos, en el municipio de Atoyac de Álvarez, y era justamente uno de los principales testigos de la Fiscalía Especial para Movimientos Sociales y Políticos del Pasado (FEMOSPP), dentro de las investigaciones que se llevan a cabo contra militares y policías involucrados en las mencionadas violaciones de los derechos humanos. Una organización de defensa de los derechos humanos habría informado en reiteradas ocasiones que no era conveniente que Horacio Zacarías Barrientos Peralta fuera entrevistado

en su casa y que era necesario llevarlo a declarar a Acapulco o a Ciudad de México, porque opinaban que su vida corría peligro.

918. Por carta de fecha 4 de junio de 2004, el Relator Especial, juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, notificó al Gobierno que recibió información según la cual la policía habría recurrido a detenciones y a uso excesivo de la fuerza en contra de miembros de distintas organizaciones nacionales e internacionales así como en contra de habitantes, que estuvieron presentes en la ciudad de Guadalajara, Estado de Jalisco, en el marco de las actividades alternativas a la III Cumbre de la Unión Europea y América Latina y el Caribe (ALCUE), a finales de mayo de 2004. De acuerdo con la información recibida, el 28 de mayo, dichas actividades alternativas habrían concluido con una marcha, la cual habría transcurrido de manera pacífica. Sin embargo, un grupo de personas ajenas a las organizaciones participantes se habrían juntado a la marcha y habrían perpetrado actos violentos. Si bien la policía no habría intervenido durante la manifestación, al finalizar ésta, habría procedido a detener a los participantes, recurriendo al uso excesivo de la fuerza. Se alega además que policías vestidos de negro a los que no se habría podido identificar claramente detuvieron a muchas personas a través de redadas en las calles vecinas al centro de la ciudad. Algunas personas habrían sido incluso sacadas de establecimientos comerciales. Otras personas habrían sido detenidas en las instalaciones de la Cruz Roja, donde eran atendidas por lesiones presuntamente ocasionadas por la policía. Esta operación habría durado hasta la madrugada del 29 de mayo. Se calcula que alrededor de 95 personas habrían sido detenidas y llevadas a las instalaciones de la Secretaría de Seguridad Pública. Entre las personas detenidas se encontrarían las siguientes: **Daniel Alejandro Olvera Sule**, del Distrito Federal, **Jesús Miguel Ramos Partida**, de Guadalajara, **José Miguel González López**, de Guadalajara, **Juan Salvador Lara Piña**, de Ciudad Juárez, **Jorge Octavio Castilla Gutiérrez**, del Distrito Federal, **Freddy Javier Carrillo Márquez**, de Zapopan, Jalisco, **Ricardo Zaleta Colmenero**, de Guadalajara, **Jesús Fernández Sagrado**, **Elsa Hernández Arguello** (m), del Distrito Federal, **Edgar Flores Murillo**, **Norberto Alejandro Ulloa Martínez**, de Monterrey, **Miguel Ángel Ramírez López**, de Culiacán, **Ricardo Medina Ramos**, de Tlaquepaque, Jalisco, **Juan Carlos Flores González**, de Tlaquepaque, Jalisco, **Juan Manuel Barrios González**, **Sergio Pérez Neufeld**, de Guadalajara, **José Martí García Espinoza**, **José Cruz Lujan Sánchez**, de Monterrey, Nuevo León, **Manuel De Jesús Pereira Anguiano**, de Jalisco, **Francisco Felipe García**, del Valle De Bravo, Edo De México, **Francisco De Jesús Becerra Vázquez**, de Guadalajara, **José Luis Alejo Vázquez,** de Zapopan, Jalisco, **Gerardo Ernesto Treviño Olvera**, de Culiacán Sinaloa, **Gerardo Alberto Corona Jiménez**, de Edo De México, **Miguel Ángel Medina Hernández**, de Guadalajara, **Mauricio Uribe García**, de Edo De México, **Oscar Chávez Castillo**, del Distrito Federal, **Adrián Simón Chávez Hernández**, **Julio César González Martínez**, **Ramiro Daniel Flores Patricio**, de Guadalajara, **Haydee Berenice García Rodríguez**, **Jaime Humberto Carrero Aceves**, de Guadalajara, **Eddy Marcelino García Gómez**, de Guadalajara, **Raúl Morales Caballero**, de Zapopan, Jalisco, **Arturo Rosav Fisert**, de Zapopan, Jalisco, **Juan Manuel Flores Herrera**, de Guadalajara, **Salvador Aranda Ramírez**, de Guadalajara, **Miguel Ángel León**, de El Salto Jalisco, **Dagoberto Rivera Servín**, de Tlajomulco De Zúñiga, Jalisco, **Leonardo Rosales Delgado**, **Osvaldo Montes Ascencio**, de Tonala, Jalisco, **Liliana Galavis López**(m), de Monterrey, Nuevo León, **Alicia Aleida Torres Belmares** (m), de Monterrey, Nuevo León, y **Felipe De Jesús Landeros**, de Guadalajara. Asimismo, las siguientes personas, todas ellas de nacionalidad extranjera, habrían sido detenidas y expulsadas entre el 1 y el 2 de junio de 2004: **Patrick Leet**,

ciudadano de los Estados Unidos de América, **Matteo Zanotti**, ciudadano italiano, **Laloue Desperrier Roux** (m), ciudadana canadiense, **Roxana Yanira Bestrin Fuentes** (m), ciudadana australiana, **Silvia Ordaz Amor** (m), ciudadana española, **John Domínguez Achalandavaso**, ciudadano español, **Maria Mar Domínguez** (m), ciudadana española, y **Juan Francisco Maestre Morales**, ciudadano español. Las personas detenidas no habrían sido puestas a disposición del Ministerio Público de manera inmediata y habrían sido mantenidas incomunicadas durante aproximadamente 24 horas. Mientras se encontraban detenidas a la Secretaría de Seguridad Pública, no se les habría suministrado agua ni alimento en las primeras 36 horas de haber sido detenidos, algunas mujeres habrían sido obligadas a desnudarse y hacer sentadillas, muchos de los detenidos habrían sido golpeados, no se habría proporcionado atención medica adecuada a las personas lesionadas que se encontraban detenidas, no se les habría hecho saber cuales eran los cargos en su contra, ni quienes los acusaban así como las pruebas que existían en su contra. Se alega igualmente que los detenidos habrían sido coaccionados mediante amenaza y presión para firmar una declaración que no conocieron. No se habría proporcionado una relación oficial de las personas detenidas y sus familiares no habrían sido informados. Durante la misma noche y el día siguiente de su detención, 43 personas habrían sido puestas en libertad. Sin embargo, los otros detenidos habrían sido trasladados al Penal de máxima seguridad de Puente Grande, Jalisco. Cuatro menores habrían sido trasladados al tutelar. Los cargos que se les imputa serían motín, atentado a las vías generales de comunicación, resistencia a la ley y al arresto, vandalismo, lesiones y daños a propiedad privada. Finalmente, se ha informado a los Relatores Especiales que las autoridades del Estado de Jalisco, en particular el Gobernador, habrían afirmado que en todo momento se respetaron las garantías y derechos de los detenidos y que quienes han sido consignados ante el Ministerio Público son solamente aquellos a los que se les ha logrado acreditar plenamente la comisión de alguna conducta ilícita. Sin embargo, se alega que entre los detenidos se encontrarían personas que no habrían participado ni en los actos violentos, ni en la marcha.

919. Por carta de fecha 20 de Diciembre de 2004 el Gobierno negó que los hechos narrados ante los relatores hubieran acontecido, de manera que no habría sido impuesta ninguna acción u omisión que pudiera conculcar Derecho fundamental alguno y por lo tanto dar origen a las alegaciones. Señaló que las investigaciones realizadas por la Procuraduría General de Justicia del Estado consisten en las actuaciones que habrían sido practicadas en las 6 Averiguaciones Previas que se instauraron con motivo de los hechos delictivos que se suscitaron en el marco de la III Cumbre América Latina, el Caribe y la Unión Europea. Las únicas víctimas y posteriores denuncias que reconocieron las fuentes gubernamentales fueron las que se derivaron de los delitos de motín, pandillerismo, lesiones dolosas, robo, daño en las cosas, desobediencia o resistencia de particulares, delitos cometidos contra representantes de la autoridad, atentados a las vías de comunicación y portar armas y objetos prohibidos, que se les imputan a los 45 ciudadanos detenidos. En todo casó el Gobierno manifestó que se había respetado el principio de legalidad en relación a las garantías procesales y derechos que ampararon a los afectados durante su arresto y posterior encausamiento penal. Declaró además en defensa de las fuerzas de orden público que su actuación fue proporcionada y que actuaron en todo momento dentro de la legalidad que les ampara.

920. Por carta de fecha 5 de julio de 2004, el Relator Especial notificó al Gobierno que recibió información sobre los casos siguientes. El Gobierno respondió a dicha comunicación por cartas de fecha 7 y 8 de Septiembre de 2004.

921. **Ezequiel Martínez Matías**, Sargento Segundo de zapadores, y **Sergio Cruz Rojas**, Sargento Segundo de artillería, habrían sido privados de libertad el 4 de junio de 2001 en las oficinas de la Policía Judicial Federal Militar por órdenes de un Mayor de Infantería (cuyo nombre ha sido llevado a conocimiento del Relator Especial). Habrían sido conducidos a un cuarto por unos agentes que los habrían desnudado de manera violenta y les habrían ordenado que declararan haber tenido relaciones sexuales forzadas con una menor de 14 años de nacionalidad colombiana cuya vigilancia en la Unidad Habitacional Militar "Chihuahua" estaba a cargo de Ezequiel Martínez Matías y Sergio Cruz Rojas. Los agentes habrían vendado los ojos de los dos hombres y les habrían conducido a lugares distintos. Ezequiel Martínez Matías habría sido envuelto con una cobija, mojado con agua y sometido a descargas eléctricas en los pies. Además los agentes le habrían introducido agua en la boca cada vez que gritaba, provocándole sensaciones de ahogo. Los nombres de los agentes presentes durante estos supuestos actos de tortura han sido llevados a conocimiento del Relator Especial. Todos ellos pertenecerían a la Policía Judicial Federal Militar. Posteriormente los dos detenidos habrían sido llevados ante el Ministerio Público, y habrian sido obligados a firmar unas declariones autoinculpatorias, por la comisión de un delito de violación en perjuicio de la meno anteriormente mencionada, que habrian sido previamente elaboradas por dicho ministerio. A continuación los detenidos habrían sido trasladados a las instalaciones de la Policía Judicial Federal Militar donde habrían permanecido incomunicados desde el 4 hasta el 12 de junio de 2001. El 13 de junio de 2001 habrían sido conducidos ante el Sexto Juzgado Militar para presentar una declaración preparatoria. Ezequiel Martínez Matías habría sido sentenciado a ocho años de prisión. Dicha sentencia habría sido apelada.

922. El Gobierno informó de que la legalidad del proceso penal que los condenó a 8 años de prisión ordinaria por delito de violación en agravio de la menor L.T. Argumentó que las garantías procesales del procedimiento habrían sido respetadas en la fase de Averiguación Previa primero y en la instrucción del Proceso Penal después. Los inculpados habrían sido asistidos desde las primeras diligencias por abogados militares defensores de oficio y posteriormente por abogados particulares de acuerdo a su voluntad. Los supuestos actos de tortura que fueron denunciados ante la Comisión Nacional de Derechos Humanos no habrían sido probados a tenor de lo establecido por los exámenes médicos realizados en fecha 5 y 12 de junio de 2001, los cuales certificaron que los inculpados se encontraban clínicamente sanos y sin huellas de lesiones externas recientes. Se descartó por lo tanto que hubiera sido ejercido ningún tipo de violencia o cualquier otra forma de presión a fin de lograr un testimonio autoinculpatorio. En cualquier caso el Gobierno aclaró que en la actualidad habría una investigación en curso a cargo de la Comisión Nacional de Derechos Humanos, iniciada a raíz de la queja presentada por Claudia Ordóñez, visitadora del Centro de Derechos Humanos "Miguel Agustín Pro Juárez" en nombre de las supuestas víctimas.

923. **Rogaciano Rendón Guevara**, un campesino de 35 años, habría sido detenido por elementos de la Policía Judicial del Estado de Guerrero el 25 de agosto de 2002, en la población de Tlaquiltepec, municipio de Huamuxtitlán, Estado de Guerrero. Durante 18 días sus ojos habrían permanecido casi permanentemente vendados. Habría sido repetidamente golpeado en distintas partes del cuerpo y con distintos métodos, supuestamente para extraerle una confesión. Habría sido sofocado con agua y con bolsas de plástico. Habría sido sometido a descargas eléctricas. Se alega también que se le habría impedido la micción y defecación de manera humillante. Además habría tenido un acceso limitado a alimentos y agua. Habría sido

trasladado al Centro de Readaptación Social de Huamuxtitlán el 11 de septiembre de 2002. Hasta ese día, no habría tenido acceso a sus familiares y habría sido mantenido aislado. Como resultado del tratamiento supuestamente recibido, habría sostenido dolor en varias partes del cuerpo, especialmente en la parte anterior del tórax, en el costado izquierdo y en la parte anterior del cuello. También habría presentado síntomas de cefalea, astenia, angustia, depresión y sentimientos de culpabilidad. Un dictamen practicado por un médico miembro de la Asociación Civil Acción de los Cristianos para la Abolición de la Tortura habría permitido confirmar estas alegaciones. Sin embargo, la Agencia del Ministerio Público del Fuero Común del Distrito Judicial de Zaragoza, en Huamuxtitlán, habría establecido que el detenido solamente presentaba excoriaciones dérmicas en las muñecas. Rogaciano Rendón Guevara habría presentado una queja ante la Comisión de Defensa de Derechos Humanos del Estado de Guerrero y ante la Procuraduría General de Justicia del Estado. Ésta habría iniciado una investigación. Por otra parte, también se habría iniciado un juicio en contra de Rogaciano Rendón Guevara por delito de secuestro. Las acusaciones en su contra se basarían en las confesiones extraídas bajo las circunstancias antemencionadas.

924. El Gobierno negó en su respuesta que fuera sometido a torturas y declaró que el inculpado emitió su declaración ministerial aceptando su participación en la comisión del delito de secuestro de manera voluntaria y fue asistido por su abogado quien habría estado presente en la citada diligencia. La queja habría sido presentada en representación del Sr. Rogaciano Rendón ante la Comisión de Derechos Humanos del Estado de Guerrero, y fue éste órgano quien habría iniciado la investigación pertinente que dio lugar a la Recomendación 003/2004 en fecha 19 de enero de 2004. Ésta última instó a iniciar procedimiento administrativo en contra de los presuntos autores de los hechos, cuya identidad es conocida por el Relator, y aplicar la sanción correspondiente con independencia de la responsabilidad penal en la que pudieran haber incurrido. Por lo tanto, le correspondería a la Visitaduría de la Procuraduría iniciar la investigación de carácter administrativo pertinente. El Gobierno declaró no obstante que no habría prueba concluyente que determinara la práctica de torturas en agravio de los inculpados. Destacó en este sentido que los exámenes médicos al que fue sometido el inculpado en fechas 11 y 17 de septiembre de 2002 no detectaron huellas de lesiones o golpes a la vista.

925. **Fidencio Hernández Martínez**, Subteniente, y otros **integrantes del 65° Batallón de Infantería** con sede en Guamuchil, Estado de Sinaloa, habrían sido acuartelados y mantenidos incomunicados durante más de una semana en octubre de 2002. Varios de ellos habrían sido sometidos a descargas eléctricas. Se alega también que habrían sido forzados a desnudarse y acostarse sobre un suelo caliente y a pleno sol. En esta posición, habrían sido sometidos a golpizas. El Subteniente Fidencio Hernández Martínez habría denunciado los hechos ante el Juzgado Décimo de Distrito del Estado de Sinaloa.

926. El Gobierno señaló que la única denuncia existente fue realizada por el teniente de Infantería Marco Antonio Vázquez por supuestos actos de tortura por parte de Agentes de la Policía Judicial Militar. Por lo tanto no existió querella por supuestas violaciones a los derechos humanos en agravio de Fidencio Hernández o algún otro elemento del 65 Batallón de Infantería. La Procuraduría General de Justicia Militar habría integrado una Averiguación Previa y no se habría acreditado el delito de tortura. El Gobierno declaró que los exámenes médicos a los que fueron sometidos las supuestas víctimas no habrían detectado huellas tortura, lesiones o cualquier tipo de maltrato, por lo que el tercer Agente Investigador del

Ministerio Público Militar adscrito a la Sección de Averiguaciones Previas propuso el archivo definitivo del caso al no poder determinar responsabilidad alguna del personal militar que se habría visto involucrado en los hechos.

927. **Miguel Ángel Mesino Mesino**, 38 años, hijo del fundador y dirigente de la Organización Campesina de la Sierra del Sur (OCSS), habría sido retenido por aproximadamente 20 hombres armados y encapuchados el 19 de enero de 2003 en el mercado de artesanías en el centro de Acapulco. Dos amigos suyos que le acompañaban también habrían sido detenidos. A Miguel Ángel Mesino Mesino le habrían tapado la boca y golpeado los oídos y le habrían dado golpes en el estómago, lo habrían subido a un vehículo, llevado por diversos rumbos y cambiado de vehículo varias veces. Sus captores le habrían dicho que lo sacarían de la ciudad y luego lo matarían. Los captores no se habrían identificado en ningún momento. El 20 de enero de 2003 habría sido recluido al penal de Técpan de Galeana y acusado de homicidio. El 23 de enero de 2003 habría sido trasladado al Centro de Readaptación Social (CERESO) de Chilpancingo. En las investigaciones sobre el asesinato del cual le acusaban, los testigos habrían hecho declaraciones contradictorias.

928. El Gobierno negó la existencia de torturas en agravio del afectado y defendió la legalidad del proceso penal a través del cual fue juzgado por la presunta comisión del delito de homicidio calificado y posteriormente absuelto en sentencia firme de fecha 18 de noviembre de 2003. El Gobierno constató que no existía denuncia alguna ante las autoridades ministeriales que pudiera dar lugar a la investigación correspondiente, y que el afectado no manifestó haber sido golpeado o torturado en su declaración preparatoria. Reconoció no obstante la existencia de dos expedientes de queja iniciados por la Comisión de Derechos Humanos del Estado de Guerrero. La primera queja se recibió en fecha 21 de enero de 2003 en contra de elementos de la Policía Judicial del Estado por los delitos de robo y tortura y la segunda, en fecha 24 de enero de 2003 en contra del Juez de Primera Instancia del Ramo Penal del Distrito Judicial de Galeana, el Agente del Ministerio Público del Fuero Común adscrito a dicho Juzgado y Agentes de la Policía Judicial del Estado por irregularidades en el traslado penitenciario y detención arbitraria. Dichos expedientes fueron acumulados y se emitió la resolución de no responsabilidad.

929. **Ulises Perzabal Ibáñez** y su esposa **Cynthia Kiecker**, ciudadana de los Estados Unidos de América, ambos artesanos, habrían sido detenidos por agentes de la policía judicial el 30 de mayo de 2003 en la ciudad de Chihuahua. Durante su arresto, habrían sido golpeados y amenazados de muerte. Los ojos de Ulises Perzabal Ibáñez habrían sido vendados y la cabeza de Cynthia Keicker cubierta con una bolsa de plástico. Habrían sido conducidos a la antigua academia de policía de Chihuahua, donde habrían sido repetidamente golpeados con palos y pistolas y sometidos a descargas eléctricas durante tres días. Ulises Perzabal Ibáñez habría sido atado en la parte trasera de un vehículo y amenazado con ser arrastrado si no firmaba una declaración previamente preparada por la policía judicial en la que confesaba el asesinato de una mujer en Ciudad Juárez. También habría sido amenazado con la muerte de su esposa. Una vez formada la declaración, habrían sido presentados ante la prensa. El médico legista habría declarado que los detenidos no presentaban heridas serias. Sin embargo, se alega que Ulises Perzabal Ibáñez presentaba heridas y contusiones en las zonas abdominal y pectoral, en la espalda, el hombro y los brazos, así como quemaduras por todo el cuerpo, especialmente en las partes genitales. Además sus rodillas estarían muy hinchadas. Se alega igualmente que Cynthia Kiecker presentaba contusiones en los brazos, heridas en los pies,

dolores en los ligamentos, quemaduras en distintas partes de cuerpo y arañazos en la cara. El 1 de junio de 2003 habrían sido forzados a participar en una supuesta reconstrucción de los hechos. Posteriormente habrían sido trasladados al CERESO de Chihuahua. Los dos detenidos no habrían tenido acceso a un abogado hasta el 6 de junio de 2003. Se alega igualmente que las autoridades consulares de los Estados Unidos de América no habrían sido debidamente notificadas de la detención de Cynthia Kiecker.

930. El Gobierno informó de que se apoyó en las constancias de la averiguación previa de la causa penal instruida en el Juzgado Primero del Distrito Judicial Morelos y de la Procuraduría General de Justicia el Estado para negar la existencia de cualquier forma de violencia ejercida contra los afectados durante el arresto. Informó además de que sus cuerpos fueron sometidos a exámenes médicos y que las ropas de Cynthia Kiecker fueron objeto de dictámenes periciales en busca de señales que pudieran delatar la existencia de malos tratos. En este sentido no se detectó signo de violencia alguno y el estudio psicológico realizado sobre Cynthia Kiecker no reveló ningún tipo de trauma que hubiera el estado mental de la misma. Las únicas lesiones de carácter leve fueron detectadas en fecha 13 de junio de 2003 por la médico legista de la Procuraduría General que examinó a Cynthia Kiecker en la fase de averiguación previa que fue iniciada con motivo de las alegaciones. El Gobierno hizo constar que se presentó una denuncia a nombre de la víctima por el Cónsul General de los Estados Unidos de América ante el Procurador de Justicia del Estado de Chihuahua el 9 de julio de 2003 y que dio inició una investigación sobre los hechos a cargo de un Agente del Ministerio Público adscrito a la Procuraduría General de Justicia. Tal investigación concluyó que no procedía el ejercicio de una acción penal o disciplinaria ante la inexistencia de actos delictivos, y en la actualidad se encontraría pendiente de una resolución a cargo del Procurador General de Justicia.

931. **Miguel David Meza Argueta** habría sido detenido por agentes de la Procuraduría General de Justicia del Estado (PGJE) en Chihuahua el 14 de julio de 2003, en relación con el asesinato de una familiar, Neyra Azucena Cervantes, de 19 años de edad, quien habría desaparecido el 13 de mayo de 2003. De acuerdo con la información recibida, el 14 de julio de 2003, Miguel David Meza Argueta habría acudido junto con otros familiares al Centro de Inteligencia de la Procuraduría para reconocer las pertenencias de la difunta. Seguidamente, él y su tío Jesús Argueta habrían sido detenidos y conducidos a la antigua academia de policía de Chihuahua. Allí, habría sido repetidamente sometido a amenazas, golpes y descargas eléctricas, especialmente en el pecho, la espalda y las partes genitales, después de haber sido desnudado y empapado de agua. En ocasiones, su cabeza habría sido cubierta con una bolsa de plástico, lo que habría dificultado su respiración. Lo agentes también le habría golpeado fuertemente las orejas con las palmas de las manos. Habría sido obligado a confesarse culpable de los delitos de privación ilegal de libertad, violación y homicidio de Neyra Azucena Cervantes. Posteriormente habría sido trasladado al CERESO de Chihuahua. La Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la independencia de magistrados y abogados transmitieron un llamamiento urgente sobre la situación de Miguel David Meza Argueta y Jesús Argueta el 24 de julio de 2003.

932. El Gobierno negó la existencia de actos de violencia realizados en su contra, ya que su detención por presunto delito de homicidio habría sido verificada por medio de un mandato de una autoridad con las facultades y los requisitos legales previstos por la ley. El Gobierno

declaró que en el desarrollo de la declaración ministerial que habría contado con la presencia de un visitador de la Comisión Estatal de Derechos Humanos no habría sido apreciada ninguna alteración en la integridad física del afectado. Hizo constar además que tal declaración fue registrada en formato de video y contó con la asistencia de un defensor y la participación de un Visitador de la Comisión Estatal de Derechos Humanos, por lo que la falsedad de las alegaciones que denunciaban una presión para confesarse culpable sería manifiesta. Por lo tanto, no hubo imposición de acción u omisión alguna de carácter censurable ni en la diligencia mencionada ni en el Centro Penitenciario del Distrito Judicial de Morelos, lugar en el que se encuentra internado en la actualidad. El Gobierno aclaró que no fue interpuesta denuncia y que fue la propia Procuraduría General en atención a la solicitud de una Diputada Federal la que instruyó a la Coordinadora de la Contraloría de Asuntos Internos para que hiciera una revisión de la causa y se indagara la posible existencia de actos de violencia ejercidos contra David Meza. Tal indagatoria se encontraría en proceso de investigación y no se habría establecido responsabilidad alguna en relación al acaso. Por esta razón el Gobierno alegó la imposibilidad de establecer sanciones penales o disciplinarias, así como otorgar compensaciones a la víctima o su familia hasta que la investigación hubiera finalizado. En lo que respecta a los exámenes médicos, se indicó que el médico legista correspondiente emitió el certificado de integridad física en fecha 15 de Julio de 2003, dando cuenta de que no presentaba huellas de violencia en su anatomía.

933. **Eduardo Hernández Sánchez** habría sido detenido el 5 de enero de 2004 por miembros de la Agencia Estatal de Investigación (AEI) en el municipio de San Cristóbal de las Casas, Estado de Chiapas. Los agentes de la AEI no se habrían identificado como tales y habrían procedido a su detención sin mostrar ninguna orden de aprehensión. Mediante el uso de la fuerza lo habrían subido en la parte trasera de una camioneta perteneciente a la AEI. En el vehículo, su cabeza habría sido cubierta con un suéter y habría sido golpeado. Habría sido conducido a un lugar desconocido en una zona montañosa donde le habrían vendado los ojos, atado las manos e inmovilizado en el suelo. En esta posición, le habrían llenado la boca de agua, provocándole sensaciones de ahogo. Más tarde, le habrían colocado bolsas de plástico en la cabeza. Mientras era interrogado y presionado para que se declarara culpable de un homicidio e involucrara a más personas, también habría sido amenazado de muerte. El 6 de enero de 2004 habría sido trasladado a la Procuraduría de Tuxtla Gutiérrez, donde le habrían obligado a sujetar una pistola y le habrían hecho varias fotos con el arma en las manos. El 7 de enero de 2004 habría sido llevado a la Procuraduría Indígena de San Cristóbal de Las Casas. El 9 de enero de 2004 habría sido conducido a la prisión de Cerro Hueco.

934. **Centro de Rehabilitación para Toxicómanos del Estado de México** (CERTEM) ubicado en el municipio de Metepec, Estado de México. Los menores habrían sido trasladados al CERTEM por decisión del Sistema Nacional para el Desarrollo Integral de la Familia (DIFEM) del Estado de México, a pesar de tratarse de menores sin ningún tipo de adicción. Según la información recibida, los niños presentarían frecuentemente marcas de maltrato físico. **E. R. M.**, **J. C. H.** y **G. T. C.** sostendrían cicatrices en la cara tras haber sido golpeados por uno de los coordenadores del Centro. Los menores no recibirían una dieta alimentaria adecuada y serían a menudo castigados sin comer. Uno de los menores, **K. H. R.**, habría sufrido una pérdida repentina de 8 a 10 kilos. La rígida disciplina del Centro impondría una hora fija para ir al baño y hacer sus necesidades. El director del Centro habría declarado que los niños eran muy sanos y que por lo tanto no requerían de un servicio médico en el Centro. Se alega además que el CERTEM, un lugar para la rehabilitación de personas adultas y

adictas a la droga, no contaría con personal capacitado para la atención de menores en situación de abandono u orfandad. Una maestra del Centro habría expuesto ante distintas autoridades y servidores públicos de diversas dependencias las condiciones en las que vivirían los menores. La Comisión Estatal de Derechos Humanos (CEDH) también habría sido informada.

935. El Gobierno informó sobre las investigaciones realizadas por el Centro de Prevención y Atención al Maltrato de la Familia y el área de Trabajo Social, ambas instancias dependientes del Sistema para el Desarrollo Integral de la Familia, quienes realizaron valoraciones médicas, psicológicas y de trabajo social. Añadió que la propia Comisión de Derechos Humanos del Estado de México desarrolló diversas investigaciones sin que las mismas pudieran concluir la existencia de algún tipo de maltrato. Reconoció que hubo denuncias ante la Comisión de Derechos Humanos y la Agencia del Ministerio Público Especializado en Delitos Intrafamiliares y Sexuales. En la actualidad la única línea de investigación abierta sería la que lleva a cabo la Procuraduría General de Justicia, encargada de la investigación y persecución de los delitos en el ámbito de lo penal, y se encontraría en la fase de investigación de los hechos. En lo que respecta al ámbito administrativo la Comisión de Derechos Humanos Estatal, tal y como se ha mencionado, no habría encontrado pruebas concluyentes que determinaran la existencia de malos tratos o desatención al interno. Su actuación habría finalizado con la elaboración de un informe de recomendación que recogió una serie de observaciones a fin de mejorar las condiciones que actualmente tienen los menores sin que de ellas se deduzca la imputación de algún hecho relacionado con tortura, maltrato o condiciones similares.

936. Por carta de fecha 6 de agosto de 2004, el Relator Especial, juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, notificó al Gobierno que información sobre los casos individuales siguientes:

937. Miembros de la **comunidad indígena zapoteca de Unión Hidalgo**, en el municipio de Juchitán, estado de Oaxaca, habrían resultado heridos y uno de ellos, **Manuel Salinas Santiago**, habría fallecido, en el curso de una manifestación llevada a cabo el 13 de febrero de 2003 ante el ayuntamiento de Unión Hidalgo y encabezada por el Consejo Ciudadano Unihidalguense (CCU). Se alega que agentes de la policía municipal y otros hombres armados que habrían actuado a las órdenes del presidente municipal habrían abierto fuego contra los manifestantes. La manifestación del 13 de febrero habría sido convocada porque la Contaduría Mayor de Hacienda de la Legislatura del estado de Oaxaca no habría llevado a cabo una auditoría de las cuentas de las autoridades municipales, como lo había pedido la CCU después de que se habrían formulado denuncias de fraude contra el presidente del municipio y otros administradores locales pertenecientes al partido que gobierna en Oaxaca, el Partido Revolucionario Institucional (PRI).

938. Por carta de fecha 29 de Octubre de 2004 el Gobierno informó de que toda hipótesis de tortura en relación con los hechos acontecidos, habría quedado completamente descartada y facilitó información sobre los hechos acontecidos en febrero y mayo de 2003. Ofreció su propia versión de lo acontecido, en virtud de la cual señala como responsable de los altercados al Consejo Ciudadano Unihidalguense. En lo que concierne a los hechos del 18 de Febrero de 2003 el Gobierno aclaró que los delitos que dieron pie al inicio de la investigación a cargo del Ministerio Público habrían sido los de homicidio, tentativa de homicidio y abuso

de autoridad, siendo la identidad de los agraviados conocida por el Relator Especial. No hubo denuncia alguna al tratarse de delitos que son perseguidos de oficio y el Órgano encargado del procesamiento de los responsables es el Juez Penal del Distrito Judicial de Juchitán, Oaxaca. En la actualidad el procedimiento penal se encontraría en fase de instrucción. Hasta la fecha el Gobierno informó de que no se había impuesto ninguna sanción penal ni disciplinaria, debido a que el citado procedimiento penal aún no habría finalizado. En este sentido y por la misma razón no se había dado todavía ninguna compensación a la víctima o su familia. Finalmente fue facilitado el resultado del examen médico que confirmó las heridas provocadas por arma de fuego.

939. El CCU habría denunciado el incidente del 13 de febrero ante la Procuraduría General de Justicia del Estado (PGJE), pero no se habría emprendido ninguna acción judicial contra los responsables. Por otra parte, el presidente del municipio habría presentado una denuncia oficial por daños contra los miembros del CCU. En este contexto, el 26 de abril de 2003, **Ausencio Rodríguez Orozco** y **Romel Giovanni Matus** habrían sido detenidos temporalmente y supuestamente golpeados por la policía municipal.

940. El 13 de mayo de 2003, los miembros de la comunidad habrían protestado contra las obras municipales que se llevaban a cabo en el barrio de Manuel Salinas Santiago. Los agentes de la policía municipal que protegían a los trabajadores de la construcción habrían amenazado a los miembros de la comunidad y habrían realizado disparos, tras los cuales varias personas habrían resultado heridas. El día siguiente, **Carlos Manzo** habría sido detenido por la policía en Unión Hidalgo. El 15 de mayo de 2003, **Luis Alberto Marín** habría sido detenido y supuestamente golpeado durante una protesta por la detención de Carlos Manzo. **Francisco de la Rosa** habría sido detenido ese mismo día. Los cargos contra los tres estarían relacionados con los sucesos del 13 de febrero y consistirían en robo, privación de la libertad e intento de asesinato. Sin embargo, Carlos Manzo, Luis Alberto Marín y Francisco de la Rosa son miembros del CCU, y se cree que los cargos presentados contra ellos podrían constituir un intento de silenciar las críticas de la organización a las autoridades municipales.

941. Por carta de fecha 19 de agosto de 2004, el Relator Especial, juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, notificó al Gobierno que recibió información sobre el caso individual siguiente:

942. **Martín Serrano Herrera**, propietario del periódico Tribuna, habría sido golpeado el 22 de mayo de 2004 por tres sujetos que pertenecerían, según él, a los cuerpos de seguridad del Estado de Veracruz. De acuerdo con las alegaciones recibidas, no se habría iniciado ninguna investigación en relación con este incidente. Se alega que a lo largo de los cuatro últimos años el periodista habría sido el objeto de otras agresiones, supuestamente relacionadas con la publicación de artículos en las que se señalan irregularidades en la forma en que se gobierna el Estado de Veracruz y se destacan vínculos entre la delincuencia organizada y colaboradores cercanos a las autoridades. Antes de la supuesta agresión del 22 de mayo, Martín Serrano Herrera habría presentado diversas denuncias por las agresiones recibidas contra su persona y contra su periódico. Según el periodista, no se habrían realizado diligencias para investigar dichas denuncias. La Comisión de Derechos Humanos del Estado de Veracruz también habría sido informada de estas alegaciones.

943. Por carta de fecha 29 de Noviembre de 2004 el Gobierno facilitó un resumen de las acciones emprendidas por el afectado en forma de denuncia ante la Procuraduría General del Estado de Veracruz y el resultado de las mismas. En el año 2001 presentó una denuncia contra dos ciudadanos, cuya identidad es conocida por el Relator, por hechos constitutivos de los delitos de despojo, robo, abuso de confianza y daños, sobre la cual el Ministerio Público en primera instancia y la Sala Constitucional del Tribunal Superior de Justicia del Estado en segunda instancia determinaron el no ejercicio de la acción penal. Ese mismo año habría realizado una denuncia contra quien resultara responsable por el delito de daños, sobre la cual se determinó la reserva sin que hubiera sido interpuesto recurso alguno. En el año 2002 denunció dos delitos de fraude en su agravio que motivaron una acción penal y en el año 2003 presentó una denuncia que actualmente se encuentra en trámite. Tanto el objeto de las denunciados como la identidad de las personas contra quienes se formularon, son conocidas por el Relator. En el año 2004 realizó dos denuncias, una de ellas no pudo ser determinada por no haber sido acreditada la propiedad de las máquinas de imprenta objeto de la querella y la otra, presentada en contra de quien o quienes resultaran responsables por el delito de lesiones en su agravio no prosperó debido a la falta de pruebas concluyentes por lo que fue determinada la reserva. Ésta fue objeto de recurso y se remitió la investigación ministerial a la sala Constitucional del Tribunal Superior de Justicia del Estado de Veracruz. El Gobierno demostró de este modo que el Sr. Martín Serrano Herrera fue asistido debidamente por el Estado de derecho de conformidad con la legalidad vigente.

944. Por carta de fecha 21 de septiembre de 2004, el Relator Especial, juntamente con el de Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, notificó al Gobierno que recibió información según la cual **Horacio Zacarías Barrientos Peralta**, un campesino de la comunidad de La Florida, municipio de Atoyac de Alvarez, Estado de Guerrero, habría fallecido el 28 de noviembre del 2003 por la tarde, cuando un grupo de aproximadamente cinco personas no identificadas le habrían disparado 15 veces. Los hechos habrían ocurrido cuando Horacio Zacarías Barrientos Peralta se encontraba trabajando en su parcela y a menos de 24 horas que el Juzgado Cuarto Penal del Distrito de Acapulco librara la primera orden de aprehensión en contra de uno de los represores de la llamada "guerra sucia", un ex comandante de la Policía Judicial. De acuerdo con la información recibida, Horacio Zacarías Barrientos Peralta habría sido víctima y a la vez testigo presencial de la detención, tortura, ejecución y desaparición de campesinos en los años 1970, en acciones supuestamente realizadas por el ejército y la policía mexicanos, en el municipio de Atoyac de Álvarez, y era justamente uno de los principales testigos de la Fiscalía Especial para Movimientos Sociales y Políticos del Pasado (FEMOSPP), dentro de las investigaciones que se llevan a cabo contra militares y policías involucrados en las mencionadas violaciones de los derechos humanos. Una organización de defensa de los derechos humanos habría informado en reiteradas ocasiones que no era conveniente que Horacio Zacarías Barrientos Peralta fuera entrevistado en su casa y que era necesario llevarlo a declarar a Acapulco o a Ciudad de México, porque opinaban que su vida corría peligro.

945. Por carta de fecha 29 de noviembre de 2004 el Gobierno informó del inicio de la averiguación previa y señaló que se libraron órdenes de aprehensión en contra de los ciudadanos señalados como presuntos responsables del delito de homicidio cometido en su agravio y cuya identidad es conocida por el Relator. Dichas órdenes fueron cumplimentadas en fecha 6 y 7 de enero de 2004 y las personas mencionadas puestas a disposición del Juez de

Primera Instancia en Materia Penal del Distrito Judicial de Galeana, quien dio inicio a la causa penal y dictado auto de prisión en fecha 15 de enero de 2004. En la actualidad los inculpados se encontrarían sujetos a proceso.

Llamamientos urgentes

946. El 2 de junio de 2004, el Relator Especial envió un llamamiento urgente juntamente con Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias de conformidad sobre la situación de **Hiram Oliveros**, preso de 28 años de la prisión de Nuevo Laredo, Estado de Tamaulipas. Habría sido detenido por la policía el 26 de marzo de 2004 junto a su compañero, Mario Medina, ciudadano estadounidense de 23 años. Ambos serían sospechosos del asesinato de su vecino, Roberto Javier Mora, director del periódico local *El Mañana*, cuyo cuerpo habrían hallado apuñalado en su apartamento de la localidad de Nuevo Laredo el 19 de marzo de 2004. De acuerdo con la información recibida, antes de su muerte, Roberto Javier Mora había denunciado públicamente casos de corrupción y de tráfico de drogas. La Procuraduría de Justicia de Tamaulipas habría declarado que Roberto Javier Mora habría sido asesinado por celos porque Mario Medina sospechaba que su compañero Hiram Oliveros estaba teniendo una aventura con él. Se habría utilizado una presunta confesión en vídeo de Mario Medina para respaldar esta denuncia. Se alega que tras su detención, Hiram Oliveros y Mario Medina habrían sido torturados para que confesaran el crimen. Mario Medina también habría declarado haber sido agredido sexualmente y amenazado con ser desaparecido y que el acceso a su familia y a su abogado le habría sido negado. El 30 de marzo de 2004 los dos detenidos habrían hecho una declaración a la prensa en la que habrían negado ser responsables de la muerte de Roberto Javier Mora, y habrían manifestado que habían sido acusados del crimen porque eran una pareja gay a la que se podía obligar a confesar, y denunciado que habían sido torturados. Tras las denuncias de tortura, un juez habría ordenado que dos policías comparecieran en una vista judicial. Según los informes, ninguno de los dos se habría presentado. El 13 de mayo de 2004, Mario Medina habría sido asesinado por otro preso que le habría apuñalado 88 veces en la prisión de Nuevo Laredo. Esto habría ocurrido a pesar de que el 12 de mayo de 2004 las autoridades penitenciarias habrían ofrecido a un funcionario consular estadounidense garantías de que Mario Medina se encontraba a salvo y separado de los demás presos. La investigación sobre la muerte de Mario Medina estaría en manos de policías de la Procuraduría de Justicia de Tamaulipas. Se teme que esto pueda crear un conflicto de intereses, ya que serian los mismos que detuvieron a Mario Medina y a Hiram Oliveros.

947. Por carta de fecha 17 de agosto de 2004 el Gobierno facilitó información sobre las primeras diligencias emprendidas por la Procuraduría General de Justicia de Tamaulipas, quien habría dictado debidamente orden de detención urgente para los afectados. Dicha Procuraduría negó las torturas contenidas en las alegaciones al manifestar que no habría habido tiempo material para que estas hubieran podido tener lugar en el periodo que comprende la emisión de la orden, la detención y la puesta inmediata de los inculpados a disposición del Ministerio Público Investigador. El Gobierno subrayó que ambos reconocieron su intervención en los hechos en el marco de un proceso que habría respetado debidamente la legalidad y que habrían asistido a las diligencias los respectivos abogados defensores así como un integrante de la Quinta Visitaduría de la Comisión Estatal de Derecho Humanos. Respecto a los certificados médicos que habrían constatado el estado de salud de los inculpados el Gobierno únicamente facilitó información relativa al Sr. Mario Medina,

sobre el cual se habría practicado la inspección y fe ministerial de integridad física por el fiscal instructor, siendo un hematoma leve la única alteración física detectada. Finalmente el Gobierno hizo saber que a raíz del homicidio ocurrido en el Centro de Readaptación Social en agravio del Sr. Medina los intervinientes en el hecho fueron identificados y su responsabilidad determinada a través de las acciones de carácter penal y administrativo procedentes. En relación al Sr. Hiram Oliveros, su vida e integridad física estaría garantizada en el centro penitenciario en el que se encuentra interno por su participación en el homicidio del Sr. Javier Mora García.

948. El 3 de Agosto de 2004, el Relator Especial envió un llamamiento urgente juntamente con Relator Especial sobre la independencia de magistrados y abogados y Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas sobre la situación de inseguridad, peligro e indefensión judicial que estarían viviendo la señora **Carmela Chávez** y sus dos hijos, **F. P. C.** y **N. P. C.**, de diez y de ocho años de edad respectivamente, indígenas Na Saavi (mixtecos) del municipio de Metlatonoc, en el estado de Guerrero. De acuerdo con la información recibida, a raíz de una denuncia del particular Sr. Lorenzo Guerrero Vásquez, el 17 de abril de 2004 la policía preventiva de Metlatonoc, el Síndico Procurador Municipal, el Director de Seguridad Pública y el señor Lorenzo Guerrero Vásquez se personaron donde se hallaban los menores, acusándoles de un delito de robo que éstos afirmaban no haber cometido, y los llevaron a las oficinas del Síndico Procurador Municipal. N. P. C. estuvo retenida veinte horas en la cárcel municipal y F. P. C. lo estuvo seis días, durante los cuales habría sido sometido a impedimento del sueño y a amenazas de palizas y electrocución, con el objetivo de sonsacarle una declaración autoinculpatoria. Tras la intervención del Juez de Paz del municipio, el niño fue liberado. Una vez en casa, los niños habrían sido agredidos por el mismo particular que les habría pegado con una vara, sobretodo en la cabeza y en la espalda. Los golpes habrían ocasionado a F. P. C. una apertura en la parte posterior de la cabeza. La señora Carmela Chávez interpuso una denuncia penal por los delitos de privación ilegal de la libertad, tortura, abuso de autoridad, lesiones e intimidación. Seguidamente, se habría abierto una investigación en contra de los funcionarios municipales y un médico forense habría certificado las lesiones supuestamente infringidas a los dos menores. Sin embargo, tanto la denuncia como la investigación habrían encontrado la oposición del Ministerio Público de la ciudad de Tlapa de Comonfort. Por otra parte, se informa que la señora Carmela Chávez y sus hijos estarían siendo objeto de nuevas intimidaciones y amenazas por parte del Sr. Guerrero y miembros de su familia.

949. Por carta de fecha 2 de Septiembre de 2004 el Gobierno informó de que se había iniciado investigación por los delitos de lesiones, privación de libertad personal, amenazas, allanamiento de morada e intimidación cometidos presuntamente contra los dos menores por servidores públicos del municipio de Metlatonoc. La denuncia fue realizada por la señora Carmen Chávez Castro en agravio propio y de sus dos hijos menores. La identidad de los imputados en la investigación previa es conocida por el Relator.

950. El 23 de agosto de 2004, el Relator Especial envió un llamamiento urgente juntamente con Relator Especial sobre la independencia de magistrados y abogados y Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas sobre la situación con **Eduardo Hernández Sánchez**, un indígena tzotzil de 19 años de edad, **Carlos Navarro Pérez**, un indígena tzeltal de 23 años de edad, **Enrique Hernández Ramos** y su madre, **Romelia Ramos Bermúdez**, **Heriberto Gómez Coello**,

abogado, **María del Carmen Grajales Castillejos**, abogada, y **Carlos Alberto Velasco**. De acuerdo con la información recibida:

951. Eduardo Hernández habría sido detenido en San Cristóbal de las Casas, Estado de Chiapas, el 5 de enero de 2004. En dependencias policiales habría sido sometido a actos de tortura y otras formas de malos tratos. Su caso fue el objeto de una comunicación transmitida por el Relator Especial sobre la cuestión de la tortura el 5 de julio de 2004, donde figuran alegaciones más detalladas sobre el trato que habría recibido bajo custodia de la Agencia Estatal de Investigaciones (AEI). Eduardo Hernández habría sido acusado de estar implicado en el homicidio cometido en diciembre de 2003, y encarcelado el 9 de enero de 2004.

952. El 24 de enero de 2004, Carlos Navarro habría sido detenido sin orden judicial en San Cristóbal de las Casas y conducido a la Subprocuraduría para ser interrogado sobre el mismo homicidio. También habría sido interrogado en un furgón, donde habría sido golpeado repetidamente y, en dos ocasiones, le habrían cubierto la cara con una bolsa de plástico. A la segunda vez, habría perdido el conocimiento. Habría sido conducido a la Procuraduría del estado de Tuxtla Gutiérrez, donde habría sido interrogado nuevamente y sometido a más golpizas en presencia de diez policías y un miembro del Ministerio Público. El 26 de enero de 2004 habría sido obligado a firmar una confesión en la que habría reconocido haber participado en el asesinato, implicado a Eduardo Hernández y afirmado que dicho asesinato había sido ordenado por Romelia Bermúdez y Enrique Hernández. Ese mismo día, Carlos Navarro habría sido encarcelado y Romelia Bermúdez detenida.

953. Enrique Hernández habría sido detenido el 15 de abril de 2004 en la Ciudad de México y trasladado al Aeropuerto de la Ciudad de México. Allí habría sido atado en posturas forzadas, tales como acostado en la cama inferior de una litera, con el brazo estirado y la mano izquierda esposada a un tubo de la litera durante más de siete horas. Actualmente Eduardo Hernández, Carlos Navarro, Romelia Bermúdez y Enrique Hernández se encontrarían en el Centro de Readaptación Social (CERESO) 14 en Cintapala, Estado de Chiapas.

954. El 11 de agosto de 2004, los abogados que representaban a estas cuatro personas, Heriberto Gómez y María del Carmen Grajales, habrían sido detenidos por la policía en el municipio de Cintapala. Ambos habrían sido acusados de falsedad de declaraciones en grado de tentativa. Se han expresado temores que ello pueda ser un intento de impedirles defender a sus clientes. María del Carmen Grajales habría sido puesta en libertad bajo fianza el 12 de agosto, pero Heriberto Gómez seguiría encarcelado en Cintapala, pues no podría permitirse el pago de una fianza.

955. Carlos Alberto Velasco también habría sido detenido por la policía el 11 de agosto de 2004. Según el Ministerio Público habría presenciado cómo Eduardo Hernández había cometido el homicidio. Sin embargo, Carlos Alberto Velasco habría declarado ante un juez que él no estaba presente en el momento de los disparos y que no sabía quien había cometido el crimen. Seguidamente habría sido acusado de falsedad de declaración.

956. Por carta de fecha 10 de Noviembre de 2004 el Gobierno informó que de acuerdo a lo actuado e investigado, es falso que a Eduardo Hernández Sánchez se le hubiera torturado para que se declarara culpable de un homicidio e involucrara a más personas. Igualmente

señaló como falso que Eduardo Hernández hubiera sido detenido el 6 de enero de 2004, ya que habría sido detenido según fuentes gubernamentales el 5 de enero de 2004 en cumplimiento de una orden ministerial de detención por caso urgente. También sería falso que al afectado se le obligara por la fuerza a subir a una camioneta y que fuera conducido a un lugar desconocido de zona montañosa, siendo golpeado a lo largo del trayecto con la cabeza cubierta por un suéter. De acuerdo a la opinión del Gobierno es falso también que en el lugar citado, Eduardo Hernández fuera inmovilizado para después cometer actos de tortura en su contra a fin de que se declarara culpable de un homicidio e involucrara a más personas. El Gobierno argumentó con detalle tales afirmaciones y precisó que la declaración de Eduardo Hernández se realizó ante la presencia de su abogado y que los médicos legistas que practicaron los debidos reconocimientos no detectaron huellas de lesiones en la anatomía del afectado. También se afirmó que era falso que Eduardo Hernández fuera trasladado a la Procuraduría en Tuxtla Gutiérrez donde habría sido obligado a sostener una pistola y le habrían tomado fotos con el arma en la mano. Por lo tanto, tampoco seria cierto que Eduardo Hernández fuera llevado el 7 de Enero a la Procuraduría en San Cristóbal de las Casas y posteriormente conducido a la prisión del Cerro. El Gobierno informó de que actualmente Eduardo Hernández y Carlos Navarro Pérez se encontrarían sujetos a proceso penal y que en este sentido el Ministerio Público no habría impuesto acción u omisión alguna que pudiera dar lugar a alegaciones. Negó en relación al caso la práctica de torturas o cualquier otra forma de presión ejercida sobre Eduardo Hernández para obtener una declaración incriminatoria.

Seguimiento de comunicaciones transmitidas previamente

957. Por carta de fecha 5 de enero de 2004 el Gobierno respondió en relación al caso del **Samuel Castellanos Piñón y Beatriz Casas Arellanos** (E/CN.4/2004/56/Add.1, parrs. 998 a 1000). La carta remitida por el Gobierno contenía información sobre el primero y detalló lo acontecido a partir del 4 de Agosto de 2003, fecha en la que se celebró una reunión en la Coordinación General de Derechos Humanos que contó con la presencia de la titular de dicha dependencia y el propio Sr. Samuel Castellanos y donde se establecieron acuerdos relacionados con las medidas cautelares, consistentes en incrementar los rondines y recorridos de vigilancia implementados. En fecha 24 de noviembre de 2003 el afectado habría recibido nueva amenaza, lo cual dió inicio a una averiguación previa a cargo del Procurador General de Justicia y más específicamente el Subprocurador General de Averiguaciones Previas. Dichas amenazas pudieron ser expuestas ante las autoridades del Gobierno de Oaxaca y representantes de Comisión Estatal del Estado de Oaxaca en una reunión de la que se derivaron instrucciones precisas a las dependencias involucradas para la atención del caso. El Gobierno hizo constar asimismo que el Sr. Samuel Castellanos fue atendido por representantes de la Secretaría de Protección Ciudadana, llegando a acuerdos específicos sobre la vigilancia de la Policía Preventiva en las oficinas de ACAT y la asignación de elementos permanentes. Por último señaló respecto al avance de la integración de la averiguación previa, que ésta se agilizaría, que iba a ser adquirido un identificador de llamadas el cual sería destinado a las oficinas de ACAT. Se evaluaría de forma mensual el seguimiento de estas acciones conjuntamente con la Coordinación General de Derechos Humanos del Poder Ejecutivo de Oaxaca, el afectado y si fuere necesario, con los representantes de las demás autoridades involucradas a través de la convocatoria de reuniones de trabajo.

958. Por carta de fecha 5 de enero de 2004 el Gobierno proporcionó información sobre los siguientes casos:

959. **Jorge Antonio García Sandoval** (E/CN.4/2003/68/Add.1, párr. 858). El Gobierno informó sobre el inicio del procedimiento de queja a cargo de la Comisión de Derechos Humanos del Estado de Tamaulipas contra elementos de la policía preventiva municipal por su presunta participación en hechos constitutivos de los delitos de detención arbitraria, incomunicación y amenazas en agravio del afectado. La autoridad implicada negó tales hechos y tras la apertura de un periodo probatorio a efecto de que las partes aportaran aquellos medios que estimaran pertinentes el organismo estatal de derechos humanos emitió acuerdo de no responsabilidad a favor de las autoridades implicadas. En virtud de tal resolución el Gobierno concluyó que la detención se habría realizado conforme a derecho y que las lesiones que presentó el afectado se derivaron de la resistencia que opuso al arresto, el cual siempre habría respetado el principio de proporcionalidad en el uso de la fuerza. Las amenazas e

960. **Omar Guerrero Solís** (ibíd, párr. 859). El Gobierno informó sobre los delitos por los cuales resultó inculpado y puesto a disposición de la justicia, a saber, dos delitos de secuestro y uno de homicidio cualificado. En la actualidad se encontraría prófugo de la justicia tras haberse fugado del Centro de Readaptación Social de Acapulco, lo cual dio inició a una averiguación previa derivándose en orden de aprehensión.

Morocco

961. Par lettre en date du 18 février 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels le 28 janvier 2004 lors d'un sit-in pacifique organisé à l'appel de la Coalition pour le droit aux soins et à l'accès aux médicaments et de celle des artistes pour la diversité culturelle devant le Parlement à Rabat, **Abdelhamid Amine** ainsi que plusieurs militants auraient été violemment frappés par la police. Il serait alors resté inanimé pendant plusieurs minutes suite aux coups qu'il aurait reçus.

962. Par lettre en date du 27 mai 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels **Mohammed Rachid Chrii**, vice-secrétaire général de la section de l'Association marocaine des droits de l'homme (AMDH) à Safi, aurait été interpellé le 22 avril 2003 à la suite d'une altercation avec un policier alors que ce dernier aurait été en train de brutaliser un homme en état d'arrestation dans un quartier de la ville de Safi. Il aurait été emmené par ce même policier dans un centre de détention non officiel où il aurait été battu et où des objets auraient été introduits dans son anus. Il aurait ensuite été conduit au commissariat de police où il aurait de nouveau subi des mauvais traitements. Alors que des certificats médicaux attesteraient des sévices et traumatismes subis par Mohammed Rachid Chrii, aucune enquête n'aurait été ouverte sur ces faits. Par ailleurs, le 9 mai 2003, Mohammed Rachid Chrii aurait été condamné par le tribunal de première instance de Safi à 18 mois de prison ferme et 4 000 dirhams d'amende pour outrage à des fonctionnaires publics dans l'exercice de leurs fonctions. Ce verdict aurait été confirmé par la Cour d'appel de Safi le 10 juin 2003.

963. Par lettre datée du 6 août 2004, le Gouvernement a informé que la police poursuivait un revendeur de drogues quand Rashid Chrii s'est interposé de manière à lui permettre d'échapper à la police. Interrogé, le revendeur de drogue a affirmé que M. Chrii lui avait fourni de la drogue, ce que M. Chrii a admis lors d'un interrogatoire. Selon le Gouvernement, lors de sa comparution devant le tribunal de première instance, M. Chrii s'est plaint de tortures et blessures infligées par la police. Trois médecins l'ont examiné et dans leur rapport daté du 24 avril ont constaté des bleus et des blessures mais ont conclu qu'il ne présentait aucun signe de torture. Néanmoins, à la demande de la défense, le tribunal a ordonné qu'une expertise légale soit conduite par trois médecins qui ont décelé des blessures significatives et d'importants bleus sans trouver de trace de violences perpétrées au niveau de l'anus. Après avoir été jugé et avoir bénéficié de toutes les garanties d'un procès équitable, le tribunal a rejeté les allégations de torture présentées et a condamné M. Chrii à un an et demi de prison et à une amende pour avoir aidé un revendeur de drogues et de tabac et tenté de faciliter son évasion, insulté un agent de la force publique et porté une arme. Ce verdict a été partiellement confirmé par la cour d'appel, mais M. Chrii a bénéficié du pardon de Sa Majesté le Roi du Maroc le 7 janvier 2004.

964. Par lettre en date du 27 mai 2004, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels **Mbarek Taouss**, membre de l'Association amazighe Tilelli, ancien détenu, et ancien coordinateur du Comité de soutien au mouvement des victimes de l'Agence nationale pour la promotion de l'emploi et des compétences (ANAPEC), aurait été agressé le 28 février 2003 dans un restaurant de Tinghir, province de Ouarzazat, par des supposés agents de la Direction de la surveillance du territoire (DST) en présence de policiers en uniforme. Dès son entrée dans le restaurant, quatre personnes se seraient jetées sur lui, l'auraient mis par terre et l'auraient roué de coups de pied et de coups de poing. Il aurait été traîné par terre jusqu'aux toilettes, où il aurait de nouveau été passé à tabac, toujours en présence des agents de police, avant d'être menotté. Suite à cela, les agresseurs lui auraient restitué ses affaires et auraient quitté les lieux.

965. Par lettre datée du 11 octobre 2004, le Gouvernement a répondu que deux enquêtes avaient été ouvertes au niveau de la gendarmerie royale et de la police criminelle et qu'il résultait de ces enquêtes que les allégations du plaignant étaient infondées.

966. Par lettre en date du 7 juillet 2004, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des informations selon lesquelles depuis l'année 2002 de nombreux cas de torture auraient eu lieu dans le centre de Témara, administré par la Direction de la surveillance du territoire (DST) et qui servirait de centre de détention et d'interrogatoire. Selon ces informations, de nombreuses personnes soupçonnées d'appartenir à des groupes islamistes auraient été arrêtées par des membres des forces de sécurité en civil circulant à bord de voitures banalisées, et détenues au secret au centre de Témara pendant des périodes allant de quelques jours à plusieurs mois. Ces personnes auraient été interrogées par des membres de la DST malgré le fait que ceux-ci n'auraient ni le statut d'officier ni celui d'agent de police judiciaire et ne seraient donc habilités par la loi ni à procéder à des arrestations ni à détenir des suspects ni à les interroger. Certaines personnes auraient affirmé qu'on les avait déshabillées et suspendues au plafond de la salle d'interrogatoire dans une position contorsionnée. D'autres auraient été frappées à la tête et sur tout le corps à coups de poing ou

au moyen d'objets, par exemple un bâton ou une règle métallique. Des détenus auraient reçu des décharges électriques administrées au moyen d'électrodes ou de matraques électriques. Certains auraient affirmé qu'on leur avait introduit de force un objet, par exemple une bouteille, dans l'anus ou qu'on les avait menacés de leur infliger ce traitement, entre autres formes de sévices sexuels. On aurait menacé d'autres prisonniers d'arrêter leur femme ou une autre de leurs parentes pour la violer ou lui faire subir d'autres sévices sexuels. Certains détenus auraient été maintenus à l'isolement pendant toute la durée de leur détention à Témara, incarcérés dans des cellules rudimentaires où, outre des toilettes et un robinet dans un coin, l'équipement se serait réduit à des couvertures étalées sur le sol, qui auraient tenu lieu de lit. De nombreuses personnes détenues à Témara n'auraient pas bénéficié de l'assistance d'un avocat lors de leur première comparution devant les autorités judiciaires. En outre, lorsque les suspects auraient pu consulter un avocat et qu'ils auraient déclaré aux autorités judiciaires, soit au cours de l'instruction soit à l'audience, qu'ils avaient été torturés ou maltraités, aucune enquête n'aurait été effectuée, ni aucun examen médical ordonné. De très nombreuses personnes auraient été condamnées à de lourdes peines d'emprisonnement et plus d'une douzaine d'autres à la peine de mort à l'issue de procès au cours desquels leur culpabilité aurait été établie sur la base d'éléments de preuve apparemment obtenus à la suite d'actes de torture et de mauvais traitements. Dans ce contexte, le Rapporteur spécial a reçu des renseignements relatifs aux cas individuels suivants :

967. **Lekbir Koutoubi** aurait été arrêté à son domicile de la commune de Hay Mohammadi dans la wilaya (région) de Casablanca, le 20 septembre 2002, vers 23 heures, par des membres des forces de sécurité en civil. Les fonctionnaires qui auraient procédé à son arrestation n'auraient ni montré leurs cartes professionnelles ni présenté un mandat d'arrêt, en dépit de la demande des proches de Lekbir Koutoubi. Contraint de monter dans une voiture banalisée, il aurait été emmené dans un lieu qu'il aurait identifié comme étant le centre de la DST à Témara. À son arrivée, ayant affirmé ne pas connaître les personnes au sujet desquelles il aurait été interrogé, il aurait été déshabillé de force, forcé à s'agenouiller puis giflé à maintes reprises jusqu'à l'aube. Il aurait ensuite été emmené dans sa cellule pour le petit déjeuner puis ramené dans la salle d'interrogatoire au bout de quelques minutes, et de nouveau interrogé jusqu'au coucher du soleil le 21 septembre 2002. Lekbir Koutoubi aurait été régulièrement interrogé pendant deux ou trois mois et parfois frappé à coups de poing et de pied quand il niait connaître les personnes citées par ceux qui l'interrogeaient. Aux environs du 23 décembre 2002, Lekbir Koutoubi aurait été menotté et emmené, les yeux bandés, dans un autre lieu, où il aurait été détenu durant trois jours et où il aurait été contraint de signer un procès-verbal de police sans être autorisé à le lire. Le 26 décembre 2002, il aurait été présenté au procureur du Roi à la cour d'appel de Casablanca, puis à un juge d'instruction, avant d'être placé en détention préventive dans la prison d'Oukacha. 97 jours se seraient écoulés entre son arrestation et sa comparution devant les autorités judiciaires, pendant lesquels il n'aurait eu accès ni à un avocat ni à sa famille. Le 12 juillet 2003, Lekbir Koutoubi aurait été condamné à mort par la cour d'appel de Casablanca pour « formation d'association de malfaiteurs », « tentative de meurtre avec préméditation » et « tentative de destruction volontaire d'installations par des explosifs », sentence confirmée par la Cour suprême le 22 octobre 2003. Les déclarations que cet homme aurait signées sous la contrainte auraient été retenues par la Cour à titre de preuve établissant sa culpabilité, le tribunal n'ayant pas tenu compte des actes de torture mentionnés par ses avocats, au motif qu'aucun élément dans le dossier n'étayait ces allégations.

968. **Abdellah Meski**, négociant en matériel informatique, aurait été arrêté le 15 juillet 2002, vers 10 heures, par six membres des forces de sécurité en civil dans la commune de Sidi Bernoussi, wilaya (région) de Casablanca. Les fonctionnaires lui auraient demandé ses papiers d'identité avant de l'obliger à monter dans une voiture banalisée. Ils l'auraient emmené dans un poste de police de Casablanca, où il aurait été interrogé jusqu'à 17 heures environ. Dans la soirée, quatre membres des forces de sécurité en civil l'auraient fait monter à l'arrière d'une voiture banalisée et conduit les yeux bandés dans un lieu qu'il aurait identifié comme le centre de la DST à Témara, et où il aurait été maintenu en détention à l'isolement pendant 164 jours. Pendant les premières semaines de sa détention, Abdellah Meski aurait été régulièrement interrogé sans savoir ce qui lui était reproché, sur ses liens avec des personnes nommément désignées ainsi que sur ses activités en Arabie saoudite, pays dans lequel il avait résidé. Il aurait été torturé durant certaines séances d'interrogatoire, et notamment déshabillé et frappé sur la tête et les épaules au moyen d'un bâton et d'une règle métallique. On lui aurait au moins une fois plongé la tête à plusieurs reprises dans un lavabo rempli d'eau. Il aurait été menacé de viol à plusieurs reprises et on lui aurait dit que, s'il ne collaborait pas, sa femme serait violée en détention. Vers le 18 juillet 2002, six membres des forces de sécurité en civil circulant à bord de deux véhicules banalisés se seraient présentés au domicile familial et auraient procédé à une perquisition, saisi le passeport d'Abdellah Meski et celui de son épouse, Leila Rouki, son téléphone mobile et son ordinateur portable, ainsi que des disquettes et des vêtements. Leila Rouki aurait été emmenée au poste de police de Maarif, à Casablanca, où elle aurait été interrogée sur les activités de son mari puis remise en liberté. Le 26 décembre 2002, Abdellah Meski aurait été contraint de signer un document par lequel il confirmait sa volonté de coopérer avec les forces de sécurité en leur fournissant des informations sur des activités suspectes. Il aurait ensuite été conduit en voiture les yeux bandés à la gare de Rabat-Agdal, où on lui aurait dit de monter dans le premier train pour Casablanca. La famille d'Abdellah Meski n'aurait jamais été informée de son lieu de détention malgré ses demandes auprès du poste de police principal de Casablanca et des Ministères de la justice et de l'intérieur. Sa famille aurait par ailleurs tenté de déposer une plainte devant le procureur du Roi près la cour d'appel de Casablanca, mais celui-ci aurait refusé de l'enregistrer.

969. **Mohamed Chadli** et **Noureddine Gharbaoui** auraient été arrêtés à leurs domiciles respectifs de Salé, le 17 juillet 2002, vers 4 h 30 du matin, par des membres des forces de sécurité en civil. Ceux-ci auraient présenté des cartes professionnelles, mais n'auraient pas informé les deux hommes des motifs de leur arrestation ni produit de mandat d'arrêt. Les domiciles de Mohamed Chadli et Noureddine Gharbaoui auraient été perquisitionnés à plusieurs reprises, les 17, 18 et 19 juillet 2002, par des membres des forces de sécurité qui auraient saisi des ouvrages religieux, des audiocassettes et des vêtements. Les deux hommes auraient été menottés et contraints de monter dans des voitures banalisées qui les auraient emmenés dans un lieu qu'ils auraient identifié comme le centre de détention de la DST à Témara. Ils y auraient été détenus pendant 10 jours, durant lesquels ils auraient été frappés à coups de poing et de bâton sur la tête et sur différentes parties du corps alors qu'ils avaient les yeux bandés. Ils auraient également été déshabillés et aspergés d'eau glacée et frappés au moyen de matraques électriques. Les membres des forces de sécurité auraient en outre menacé Noureddine Gharbaoui de faire subir des sévices sexuels à son épouse. Les deux hommes auraient été transférés le 27 juillet 2002 de Témara à un poste de police de Casablanca, où ils auraient été détenus pendant quatre jours les mains attachées en permanence par des menottes. Mohamed Chadli et Noureddine Gharbaoui auraient été

contraints, sous la menace de nouveaux sévices, de signer des procès-verbaux de police sans être autorisés à les lire. Ces documents, datés du 30 juillet 2002, indiqueraient qu'ils reconnaissent les faits qui leur sont reprochés et préciseraient qu'ils ont été arrêtés le 29 juillet et que leurs familles ont été informées de leur placement en détention alors que tel n'aurait pas été le cas.

970. Mohamed Chadli et Noureddine Gharbaoui auraient été présentés, dans la soirée du 31 juillet 2002, au procureur du Roi près la cour d'appel de Casablanca puis au juge d'instruction. 14 jours se seraient donc écoulés entre la date d'arrestation des deux hommes et celle de leur présentation aux autorités judiciaires. Lors de leur comparution devant le magistrat, Mohamed Chadli et Noureddine Gharbaoui n'auraient pas su qu'ils étaient en présence d'un juge d'instruction et qu'ils avaient le droit d'être assistés d'un avocat. Le juge d'instruction aurait procédé à un interrogatoire approfondi et aurait ordonné aux deux hommes de signer les procès-verbaux d'interrogatoire sans qu'ils prennent connaissance du contenu. Mohamed Chadli aurait signé sans être autorisé à lire le document et Noureddine Gharbaoui, qui est illettré, aurait signé sans qu'on lui en donne lecture. Lors de leurs interrogatoires ultérieurs approfondis par le juge d'instruction, ils auraient nié les faits qui leur étaient reprochés et se seraient plaints d'avoir été maintenus illégalement en garde à vue prolongée, d'avoir été torturés et contraints de signer des procès-verbaux de police qui contenaient des déclarations qu'ils n'avaient pas faites. Noureddine Gharbaoui aurait en outre affirmé qu'il avait « avoué » lors de sa première comparution devant le juge d'instruction car il craignait d'être à nouveau remis aux forces de sécurité. Lors du procès, le 25 juin 2003, les avocats de la défense auraient évoqué les actes de torture qui auraient été infligés à leurs clients mais le tribunal n'en aurait pas tenu compte au motif qu'aucun élément dans le dossier n'étayait ces allégations. Le 12 juillet 2003, la cour d'appel de Casablanca aurait déclaré Mohamed Chadli et Noureddine Gharbaoui coupables de « formation d'association de malfaiteurs » et de « recel de choses obtenues à l'aide d'un crime ». Mohamed Chadli aurait, en outre, été reconnu coupable de « destruction de documents officiels ». Mohamed Chadli et Noureddine Gharbaoui auraient été condamnés respectivement à 20 et 10 ans d'emprisonnement, peines qui auraient été confirmées par la Cour suprême le 22 octobre 2003. Les déclarations que les deux hommes auraient signées sous la contrainte auraient été retenues à titre de preuve pour motiver leur condamnation.

971. **Abdelilah Fizazi** aurait été arrêté par des membres des forces de sécurité le 6 juin 2003 vers 13 heures dans le restaurant où il travaillait à Tanger. Dans un premier temps, il aurait été emmené dans un poste de police de cette ville avant d'être transféré, le jour même, à bord d'une voiture banalisée dans un lieu qu'il aurait identifié comme le centre de la DST à Témara. Il y aurait été détenu pendant cinq jours et y aurait été torturé pendant trois jours consécutifs. Il aurait été frappé à coups de poing et de bâton ainsi qu'au moyen de matraques électriques. Il aurait également été menacé de viol. Le 11 juin 2003, il aurait été transféré dans un poste de police de Casablanca où il aurait été détenu pendant deux jours et contraint, sous la menace de nouveaux sévices, de signer un procès-verbal de police sans être autorisé à le lire. Selon ce document, daté du 12 juin 2003, Abdelilah Fizazi aurait reconnu les faits qui lui étaient reprochés. Le procès-verbal indique aussi qu'il aurait été arrêté le 11 juin 2003, soit cinq jours après la date présumée de son interpellation. Abdelilah Fizazi aurait été présenté, dans la soirée du 13 juin 2003, au procureur du Roi près la cour d'appel de Casablanca, puis au juge d'instruction. Il n'aurait pas été informé de son droit d'être assisté d'un avocat lors de sa comparution et de ne faire aucune déclaration. Abdelilah Fizazi aurait ensuite été transféré

à la prison locale de Salé en attendant d'être jugé. Lors du procès en septembre 2003, son avocat aurait évoqué les tortures qui lui auraient été infligées, mais le juge n'en aurait pas tenu compte. Abdelilah Fizazi aurait été condamné, le 18 septembre 2003, à 5 ans d'emprisonnement par la cour d'appel de Rabat pour « formation d'une association de malfaiteurs » et « fabrication d'explosifs », entre autres charges. Les déclarations qu'il aurait signées sous la contrainte auraient été retenues à titre de preuve pour motiver sa condamnation.

972. Par lettre datée du 27 septembre 2004, le Gouvernement a transmis des renseignements détaillés sur les dispositions du Code de procédure pénale propres à prévenir la torture ainsi que les traitements cruels, inhumains et dégradants, et sur les différents organes habilités à conduire des investigations en la matière. Le Gouvernement a indiqué que le Ministre de la justice avait soumis un projet de loi au Gouvernement visant à mettre en conformité la section du Code pénal marocain sur la torture en conformité avec la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants.

973. Relativement aux cas individuels transmis et à l'exception du cas de Abdallah al-Meski, le Gouvernement a confirmé que ces personnes avaient été placées en détention et indiqué que leurs familles avaient été dûment informées de ce placement. S'agissant des tortures alléguées, le Gouvernement a fait savoir que ces personnes avaient bénéficié de l'assistance d'un avocat à tous les stades de la procédure, n'avaient jamais demandé à faire l'objet d'un examen médical, n'avaient pas fait mention de tortures au cours du procès. Ces personnes n'ont pas apporté les preuves à l'appui des accusations selon lesquelles elles avaient été retenues en détention au-delà de la durée légale et selon lesquelles elles avaient été forcées à signer une déclaration qu'elles n'étaient pas en mesure de lire. En outre, d'après le Gouvernement, aucun des magistrats compétents auxquels ces personnes ont été présentées n'a constaté sur elles des traces de violence.

974. Le 3 novembre 2004, le Gouvernement a adressé une seconde lettre au Rapporteur spécial par laquelle il a confirmé les sentences prononcées à l'encontre de **Lekbir Kattoubi, Mohamed Chadly, Nouredine El Gharbaoui** et **Abdelilah Fizazi**. Concernant, **Abdellah Meski**, le Gouvernement a indiqué qu'il n'avait jamais été interpellé par les services de police. Le Gouvernement a par ailleurs indiqué que la Direction générale de la surveillance du territoire (DGST) n'était pas habilitée, ni à procéder aux arrestations, ni aux interrogatoires qui sont du ressort exclusif de la police judiciaire.

Suite donnée aux plaintes signalées dans des communications précédentes

975. Par lettre datée du 22 janvier 2004, le Gouvernement a indiqué que **Salek Bazeid** et **Mohamed Lamin Ali Lhib Bourhil** (E/CN.4/2004/56/Add.1, par. 1023 et par. 1025) avaient bénéficié le 7 janvier 2004 d'une grâce royale, tout comme 33 autres condamnés dont la liste a été envoyée au Rapporteur spécial.

976. Par lettre datée du 22 janvier 2004, le Gouvernement a indiqué que **Belkacem Hakimi** ((E/CN.4/2004/68/Add.1, par. 900 et 901) avait également bénéficié de la grâce royale du 7 janvier 2004.

Observations

977. Le Rapporteur spécial voudrait attirer l'attention sur certaines préoccupations exprimées par le Comité des droits de l'homme (CCPR/CO/82/MAR/Rev.1, par. 13 à 17), particulièrement : l'article 26 de la nouvelle loi sur le séjour des étrangers qui permet le renvoi sans délai d'un étranger considéré comme présentant une menace pour la sûreté de l'Etat, alors même qu'il pourrait être victime de torture ou de mauvais traitements ou risquerait la peine capitale dans le pays de réception; l'existence de nombreuses allégations de torture et de mauvais traitements à l'égard de personnes en détention et le fait que des fonctionnaires coupables de telles actions ne voient, en général, leur responsabilité disciplinaire engagée que pour autant qu'il y ait une sanction; l'absence d'enquêtes conduites de manière indépendante dans les commissariats de police et autres lieux de détention; la période de garde à vue – 48 heures (renouvelables une fois) pour les crimes ordinaires et 96 heures (renouvelables deux fois) pour les crimes liés au terrorisme –, période pendant laquelle un suspect peut être détenu sans être présenté devant un juge; le fait que les prévenus ne puissent bénéficier des services d'un avocat qu'à partir du moment où leur garde à vue a été prolongée; les rapports sur les mauvaises conditions d'incarcération dans les prisons, notamment l'insuffisance des soins médicaux, l'absence de programmes éducatifs de réinsertion et l'absence de lieux de visite.

Myanmar

978. By letter dated 14 July 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

979. **Zaai Ku**, a 24-year-old villager from Kun Mong, Kung Mong village tract, Murng-Mai township, who returned from Thailand where he had been working for 11 months. He was accused of being a Shan soldier by State Peace and Development Council (SPDC) troops stationed at Kun Mong village and arrested at his family home on 12 July 2003. While being interrogated, he was beaten and subjected to other forms of ill-treatment.

980. **Ti-Ya**, aged 31, **Kaw-Lin**, aged 26, and **Zit-Ta**, agde 35, all originally from Loi Keng village, Loi Keng village tract, Kun-Hing township but forcibly relocated to Kun-Hing town relocation site in 1996. On 24 July 2003, they were conscripted to serve as porters by a patrol of approximately 50 SPDC troops from Infantry Battalion (IB) 246, led by a captain (whose name is known to the Special Rapporteur). The three men were severely beaten while their heads were covered with plastic bags. As a result, they lost consciousness several times.

981. **Zaai Kawn**, a 28-year-old owner of a motorcycle taxi in Ta-Khi-Laek township. In August 2003 he was stopped by four SPDC troops from Light Infantry Battalion (LIB) 331 who were guarding a bridgeover the Nam Tum stream between Sali Ngawk and Wan Pong villages. He was beaten until he fainted and his motorcycle was taken away. He received first aid from some villagers who found him unconscious. However, as he had serious head wounds, he was taken to Ta-Khi-Laek township hospital. It is reported that when he tried to lodge a complaint with the SPDC township authorities, he was told that nothing could be done because there was no witness and it was not possible to identify those responsible.

982. **Lung Thawn**, a 53-year-old farmer. He was severely beaten by a patrol of SPDC troops from LIB514 on 19 August 2003, when he was weeding a rice field near Murng-Kerng town. He was accused of being a Shan soldier and taken to the military base. He was released after community leaders guaranteed that he was not a Shan soldier and after 5,000 kyat were paid to the military. Lung Thawn suffered severe injuries resulting from the beating and was hospitalized for several weeks.

983. **Aa Nger**, aged 29, and **Aa Si**, aged 31, two residents of Huay Ta village, north of Murng-Yarng town. The couple was stopped by the police on 19 August 2003 when they were on their way to the town market. Their money was taken and they were repeatedly slapped.

984. Ms. **Lung Kawn**, aged 54, **Lung Leng**, aged 55, and **Pa Ming**, aged 31. They were kicked and beaten in September 2003 by SPDC troops from LIB524 and IB246 during a military training course in Kun-Hing township. As a result, Lung Kawn suffered a broken rib, Lung Leng sustained injuries to the torso and Pa Ming sustained bruises and sprains of the arms and legs.

985. **Lung Nya-Lin-Ta**, a 44-year-old resident of Ho Phaai Long village. He was arrested on 16 November 2003 by a patrol of SPDC troops from LIB332, led by a major whose name is known to the Special Rapporteur. He was accused of being a Shan intelligence agent, interrogated, beaten and subjected to other forms of ill-treatment. He was taken to the SPDC military camp and interrogated for 13 more days. He was eventually released.

986. By letter dated 21 July 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations concerning **Aye Myint**, **Min Kyi** and **Shwe Mann** (cited in a previously transmitted communication, E/CN.4/2004/62/Add.1, para. 546). According to new information received, during a visit by representatives of the International Labour Organization (ILO) at Insein Prison on 19 March 2004, the two detainees had told them that after their arrest, they had been interrogated for several days, deprived of food, water and sleep and beaten. After his visit, the ILO informal facilitator considered that the case "was not investigated or prosecuted in a systematic or credible way. It appeared that police or intelligence officers initially used methods of entrapment and that the subsequent procedures of investigation and prosecution were unsound, without any of the fundamental guarantees necessary to produce a credible outcome."(ILO document GB/289/8/2). Shwe Mann was visited by ILO representatives on 25 March 2004. He is also alleged to have been beaten at the time of his arrest and during interrogation at an MI detention centre.

987. By letter dated 22 July 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning:

988. **Lung Pho Ma**, aged 47, and **Zaai Nyo**, aged 30, both men originally from Paang Kawk village in Saai Khaao village tract, Kun-Hing township, but forcibly relocated to the outskirts of Kun-Hing town in 1997. They were cutting bamboo in a forest in Kun-Hing Township on 13 October 2003 when they were approached by a patrol of the SPDC. While

running away, Zaai Nyo was shot at but manage to escape. Lung Pho Ma was captured and suffocated to death. His body was later found tied to a tree with his head covered with a plastic bag. When some villagers and community leaders reported the incident to the SPDC troops, they were told by the deputy commander that SPDC troops had not gone anywhere at the time of the incident since they were all attending a meeting.

989. **Pu Laao**, a resident of Pa Wo village in Hawng Lerk village track, Ta-Khi-Laek township. He was arrested by a patrol of SPDC troops from Light Infantry Battalion (LIB) 359 on 21 November 2003 at his home. He was accused of possessing weapons but as the troops could not find them in his house, he was reportedly tied up, beaten and interrogated. He reportedly died while being beaten at his house. It is alleged that the troops subsequently arrested his father-in-law and threatened his wife that the latter would be killed as well if she did not state that Pu Laao had died of a heart attack.

990. **Zaai Thun Ae**, a civilian driver. On 20 March 2004, he was stopped at a checkpoint in Murng-Kerng Township by a commander from LIB 514, (whose name is known to the Special Rapporteur) when he was returning from providing forced labour for SPDC troops. When the commander told him that his car was conscripted for forced labour, Zaai Theun Ae explained that he had already served the SPDC during the three previous days. As a response, the commander reportedly struck him on the back of his neck with a riffle butt. Zaai Thun Ae died as a result of the blow. It is alleged that the SPDC troops later said that he had killed himself by slipping and hitting his head on the side of the car.

991. By letter dated 8 September 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

992. **Zaai Wan**, headman of Ho Kho village, in Wan Kawm village tract, Murng-Yawng township, **Zaai Sao**, headman of Wan Kawm village, in Wan Kawm village tract, **Zaai Phiu**, headman of Hawng Zaang village tract, and other residents of Murng-Yawng township. They were arrested on 13 or 14 March 2004 by a combined force of SPDC troops from the Kaeng-Tung-based Infantry Battalion (IB) 244 and the Murng-Yawng-based LIB 334. They were accused of providing Shan soldiers with food and funds, interrogated and subjected to electric shocks, asphyxiation with plastic bags and water, grinding of their shins with bamboo rods and other forms of torture or ill-treatment.

993. **Lung Wi-Ma-La**, Murng Kawng village, Murng-Su township. He was stopped by SPDC troops on 17 March 2004 while he was driving passengers between Murbg-Su and Tang-Yarn towns. The soldiers ordered him to hand over a considerable amount of money. He was severely beaten, as a result of which his right thigh was broken.

994. Ms. **Ma San San Htay**, a homeless nut seller in Kyinmyindaing Township, Yangon Division, and **Kyaw Min Htum**, a 26-year-old resident of Hone Lan Ward, Sanchaung Township, Yangon Division. According to the allegations received, on 18 April 2004, a police officer (whose name is known to the Special Rapporteur) went to Thida Street, Thida Ward, Kyinmyindaing Township, and tried to disperse homeless people present in the vicinity. He roused Ma San San Htay and kicked her. As she resisted, she was beaten on the mouth, grabbed by the hair and dragged along the road by the police officer. Kyaw Min Htum, a passer-by, tried to help her by talking with the officer. However, the officer reportedly

responded by beating Kyaw Min Htum. As a reaction, Kyaw Min Htum reportedly hit him back. He was subsequently arrested and charged with inflicting violence on a public servant while performing his duties. On 24 June 2004, he was found guilty by the Kyinmyindaing Township Court and sentenced to two years' imprisonment with hard labour. It is reported that the Court did not consider any extenuating circumstances and did not question the police officer's behaviour.

995. By letter dated 16 September 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received allegations concerning:

996. A **woman from Naa Pao village**, Kaeng-Tung township. She was reportedly stopped by SPDC) troops from LIB 580 on 9 February 2004 at about 4 pm, approximately two miles north of Murng Lung village. She was forced to accompany the troops to their camp. There she was reportedly gang-raped by ten soldiers. She was released the next morning and threatened with death if she denounced what had happened.

997. By letter dated 17 September 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning:

998. **Lung Wa-Ling Laai**, a 59-year-old villager of Wan Mai Tin Tap village, Ho Phaai Long village tract, Murng-Pan township. He was taken from his house to the military base by five SPDC members from LIB 332 on 6 February 2004. He was accused of helping Shan soldiers and providing them with food and information. During interrogation at the military base, he was handcuffed, severely beaten and subjected to other forms of torture and ill-treatment. He was taken back to his house some hours later in a very poor condition. Lung Wa-Ling Laai died the same day, allegedly as a result of torture.

999. **Zaai Wi**, aged 27, originally from Pa Moi village in Naa Mang village tract, Lai-Kha township, and forcibly relocated to Lai-Kha town relocation site in 1997 by the then State Law and Order Restoration Council (SLORC) troops. He was reportedly stopped along with his wife by SPDC troops from LIB515 on 24 March 2004, when they were on their way back from gathering bamboo in a forest outside the relocation site. While his wife was ordered to go home, Zaai Wi was conscripted to serve as a guide. When his wife complained about this incident, military authorities denied any knowledge about the whereabouts of her husband. Zaai Wi's body was found by villagers three days after his disappearance. They reportedly observed marks of torture on the corpse. It is believed that Zaai Wi was beaten to death.

1000. **Lung Haeng Phaw-Ka**, aged 42, **Lung Zan-Da Yawng**, and **Na-Lin**, aged 33, all from Loi La village tract, Kun-Hing township. They were arrested on 28 January 2004 in Loi La village tract by a SPDC patrol, which robbed the villagers of their property. Lung Haeng Phaw-Ka was reportedly beaten to death on the following day. The other two men were also severely beaten and subjected to torture and ill-treatment during interrogation. They were later taken away to an unknown location. The soldiers also randomly beat other villagers, including old people, women and children.

1001. By letter dated 21 September 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received allegations concerning:

1002. Ms. **Naang Kham**, aged 30, and her husband, **Zaai Yi**, 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, Zaai Yi 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 IB 246 came to the farm and interrogated Naang Kham 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. The whereabouts of her husband are still unknown.

1003. **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 on 22 August 2003 when they were going to a pineapple orchard by motorcycle. 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 officer. No action has been taken to investigate the case.

1004. **Saang Zi-Na**, a 45-year-old villager from Pang Sa, and his pregnant wife, **Naang Non**, as well as another woman, **Naang Zaam**. Saang Zi-Na 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 on the bank of the Nam Taeng river. On 26 August 2003, a column of the same SPDC troops arrested Naang Non in Paang Sa village and took her to Ta Zao Murng, a Nam Taeng river harbour. Naang Zaam, found 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, Naang Non suffered from internal injuries and had a miscarriage.

1005. Ms. **Naang Khin**, aged 22, and her sister **Naang Lam**, age 19. They were raped by a patrol of SPDC troops from LIB 515 on 16 October 2003, when they were reaping rice at their farm in Wan Zing village tract. Their father was tied up to a tree. Afterwards, the two sisters were taken to a forest by the troops. Their bodies were found by villagers some days later dumped in a hole.

1006. Ms. **Naang Sa**, aged 20, and her husband, **Zaai Leng**, aged 23, both originally from Zizawya Khe village in Wan Thi vllage tract, but relocated to Lai-Kha township in 1997. They were approached in their farm in Wan Thi village tract by about 40 SPDC troops from Co. 3 of IB64 on 26 November 2003. Zaai Leng was tied up outside the farm and Naang Sa gang-raped by the troops. She was later taken with them. Zaai Leng and other villagers went to the

base of IB64 to inquire about her but were not allowed to enter the base. Three days later, Naang Sa's body was found near the farm.

1007. Ms. **Pa Ong**, a 40-year-old mentally disabled woman, 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 LIB515 in Maak Laang village. She was dragged out of the village and gang-raped by the soldiers. She reportedly died four days later.

1008. Ms. **Naan Zum**, aged 18, 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 appeals

1009. On 18 October 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 right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **U Aye Kyu**, also known as "Monywa" Aung Shin, a former newspaper editor, **U Aung Myint**, also known as "Phyapon" Ni Loan Oo, a newspaper journalist, **U Tun Myint**, a teacher, **U Naing Naing**, also known as Saw Naing Naing, an elected member of Parliament, and **U Soe Han**, a former high court advocate, all of whom have been involved in the work of the National League for Democracy (NLD). According to the allegations received, U Aye Kyu, U Tun Myint, U Naing Naing and U Soe Han, who are currently detained in the Insein Prison, all suffer from serious health problems. U Aye Kyu specifically suffers from asthma and respiratory problems. U Aung Myint is currently held in the Kalay Prison, approximately 600 miles away from Yangon, where prisoners allegedly rely on relatives for the provision of food and medicine.

Observations

1010. The Special Rapporteur considers it appropriate to draw attention to the concerns of the Committee on the Rights of the Child (CRC/C/15/Add.237, para. 40) about the lack of information regarding ill-conduct of law enforcement officials and army personnel, especially in the light of numerous reports of torture, serious ill-treatment and sexually abuse, including rape, of children by these officials.

Nepal

1011. By letter dated 26 August 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations concerning:

1012. **Subid Guragain**, a local reporter for the daily *Rajdhani*, published in Kathmandu, and vice-chairperson of the Sunsari section of the Federation of Nepalese Journalists (FNJ). On 17 June 2004, he was arrested in Sunsari district and kept for three hours at the Shree Meher Company headquarters. During his detention, he was severely beaten with gun butts and army boots, and threatened with death. He published two articles criticizing the Royal Nepal Army (RNA) for their alleged mistreatment of citizens.

1013. **Ram Mani Misra**, sub-editor of the weekly *Nawajagriti* and central councillor of the FNJ. On 19 July 2004, he was approached by RNA personnel in Siraha district, when he was crossing a road to go to his press office. Without giving any reason, the RNA personnel beat him.

1014. An order banning public demonstrators and the assembly of more than five persons within the Kathmandu Ring Road and Lalitpur areas was issued by the Kathmandu District Administration on 8 April 2004 (cited in a previously transmitted communication, para. 1137). Ms. **Kamala Pant**, a bank employee, was dragged on the ground by the police. **Ram Kumar Mahato**, a journalist with the *Janakpur Bishow Jagaran*, Danusha, was beaten with a lathi on the head and was hospitalized. The police threw stones at the demonstrators in and around Padma Kanya Campus. **Om Bandhu Karki**, a journalist for the *Naulo Nepal Weekly*, **Ram Prasad Adhikari**, a Central Committee member of the Nepal Student Union, **Jeevan Dangol**, a former Central Committee member of the Nepal Student Union, **Devendra Niroula**, from Solukhumbu, and at least five other people were injured on the head by the stones. They were all hospitalized. **Kudan Kaphley**, president of the Student Union of Pashupati Bahumukhi Campus, Chabahil, was also injured. 1,000 demonstrators, including journalists, lawyers and bystanders, were detained in the Nepal Food Cooperation Godown in facilities usually used for the storage of animals, without access to basic needs such as shelter from the rain, bedding, drinking water, adequate food or toilet facilities. 200 women were held along with men, with no separation.

1015. **N. M.** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, paras 1226-1227). Following his release, he was harassed by security forces personnel who asked him to contact them regularly. On 8 January 2004, he was told by security forces personnel that if he did not hand over another person, he would himself be arrested again. If they could not find him in his house, they would then arrest other members of his family. N.M. killed himself the following day. It is believed that he committed suicide to escape the threats and harassment by the security forces.

1016. By letter dated 17 September 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning **Badri Khadka**, a reporter for *Janadesh Weekly*, a weekly publication believed to be linked to the Communist Party of Nepal (CPN – Maoist). On 29 August 2004, he was arrested by security forces in Birtnagar, Morang district, and later transferred to the Rangeli area. He died as a result of beatings and other forms of torture in Govindapur-7, in the Larikata area shortly afterwards. The security forces reportedly initially denied his arrest and said that he might have been killed during crossfire with the CPN – Maoist.

1017. By letter dated 21 September 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1018. **Raju Lama**, a 22-year-old garment labourer, Kathmandu. He was arrested in April 2003 by a group of policemen from Sorhakhutte Ward police and detained for 17 days. He was produced in the District Administration Office, Kathmandu, for remand extension three days after his arrest. While in custody, he was reportedly beaten on the head with wooden sticks on

several occasions by policemen. He was released on bail. He was arrested again on 31 May 2003 and taken to Hanuman Dhoka District Police Office. In the interrogation section (KERKAR) his hands were tied behind his back and he was forced to lie down. While in this position, he was beaten with a stick on the soles of his feet. A stick was kept under his knees and two policemen rolled over his thighs with wooden sticks for 15 minutes. He lost consciousness. On the following day, he was taken to the same section. He was beaten on the back with a stick by four or five policemen. He was released on 15 June 2003, without any charge. On 2 August 2003, he was arrested again by Hanuman Dhoka police and interrogated about a robbery. He was threatened with the arrest of his family if he kept denying knowing the name of the perpetrator. He was released on 18 August 2003. On 7 September 2003 he was arrested again by ten plain-clothes policemen. He was taken to the KERKAR of Hanuman Dhoka District Police Office, where he was beaten with a plastic pipe on several occasions during three days. He was forced to confess to the robbery. He was kept in custody in Hanuman Dhoka for two months without any warrant. He was produced at the District Court of Kathmandu on 14 November 2003 on the charge of robbery, together with three other people. It is reported that as a result of the treatment received, he sustained two red wounds on his right knee and several black scars on his back. A NGO visited him on 25 November 2003 in Hanuman Dhoka and the following day, filed an application for his physical and mental medical examination.

1019. **Jaya Bahadur Lama**, aged 28, and **Mani Lama**, aged 20, Chuchepati, Kathmandu, working at a carpet factory in Boudha. On 6 December 2003, they were approached by some individuals who tried to extort money from them. At the same time, night patrolling armed police arrived at the scene and beat Mani Lama after the individuals who assaulted them told the police that they were homosexuals. Jaya Bahadur Lama was slapped when he tried to help his friend. Both men were thrown into a police van, where they were handcuffed and forced to lie face down with the head covered. They were severely beaten with rifles and boots. It is alleged that when Jaya Bahadur Lama mentioned that they were members of the Blue Diamond Society, a NGO working for the welfare of homosexuals, the assault became more severe. One hour later, they were taken to an unknown armed police camp. They were locked into a dark room, where they were severely beaten by 20 police officers. The police allegedly attempted to force them to have oral sex. They were reportedly accused of being Maoist. They were put again in the police van and later thrown in a street with their heads covered. When they uncovered their heads, they found themselves near Ratopul and Pashupatinah temple. There, they met another police van, and they explained to the police officers what had happened. Although they were in need of immediate medical assistance, the police abandoned them on the street, allegedly after they learned that they were homosexuals. Some hours later, they were taken by the Blue Diamond Society to a hospital. A complaint was filed by the same organization with the armed police headquarters. No action has been taken to investigate this case.

1020. **A. S.**, agde 8. On 16 December 2003, he was shot by plain-clothes security personnel in Madheli Village Development Committee -3, Sunsari District. He had stopped at the canal with two other local people when army security personnel in plain clothes arrived with weapons. The three persons became scared and began running away. The security personnel ordered one of them to halt and fired at him when he failed to stop. A. S. was hit and was immediately taken by the security personnel to B.P. Koirala Memorial Hospital, Dharan. They gave Rs. 700 to his parents for expenses. According to the doctor who examined the boy, the

veins of his neck were crushed and he lost the use of his legs permanently. After this incident, the RNA spokesperson said that A. S. was wounded in a crossfire between the soldiers and Maoist rebels, and that it could not be ascertained which party's bullet hit the boy. However, there was no crossfire at the time and place of the incident.

1021. **Dinesh Raj Prasain**, Coordinator of the Collective Campaign for Peace (COCAP). On 13 January 2004, he was assaulted in his residence in Banasthali, Kathmandu, by six or seven security forces personnel in plain clothes. They broke the door of his house and severely punched and kicked him in the face, head, stomach, back and thighs. The men searched his home. During the incident, approximately 15 members of the Nepali army in uniform surrounded the building. A formal complaint was later lodged for a medical examination with the District Police Office in Kathmandu.

1022. **M. R.** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, para. 1247). According to new allegations, although the police denied any knowledge of his whereabouts, during an unannounced visit to the Ward Police Office in Baudha, Kathmandu, on 24 December 2003, the National Human Rights Commission discovered that he was detained there. He was released by police on 1 January 2004, on condition that he reported to Hanuman Dhoka District Police Office (DPO) on a daily basis. On the same day, his mother was taken in a van by police officers and told to sign a document, without being allowed to read it, in return for her son's release. On 2 January 2004, the Supreme Court ordered his release, although it had already taken place.

1023. **Hom Bahadur Bagale** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, para. 1139). According to the new allegations received, a complaint was filed on his behalf and he sought compensation for torture and ill-treatment while in detention in December 2002. Following this, the Inspector General of Police took departmental action to terminate his employment from the police service. Hom Bahadur Bagale challenged this action by instructing his lawyers to seek an injunction in the Appeal Court. On 16 June 2004, the Appeal Court ruled against him. Hom Bahadur Bagale may be dismissed from service before the final appeal in the Supreme Court will be heard.

1024. By letter dated 9 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1025. **Ganesh Kshetri**, aged 44, Kathmandu -16, Balaju. On 27 August 2004 at around 7 pm, he was taken away from his house on suspicion of drug charges by the assistant sub-inspector (whose name is known to the Special Rapporteur) and a police constable from Balaju Ward Police Station. The police first took him to the Banasthali temporary police station, where he was put in a van with ten more policemen and taken to Balaju Ward Police Station. At 10.30 am the next day the sub-inspector, joined by a number of other policemen, started to beat him with a pole and kicked him all over his body until he lost consciousness. At around 1 pm, the police called the victim's father to the police station to take his son. When the father asked why his son was seriously injured, the police said that he fainted and fell down. The police released Mr. Kshetri with a fine and threatened him and his father not to report anything to the media otherwise they would torture him again in the same way. On 29 August, Mr. Kshetri's father took his son to B & B Hospital, Gwarko, Lalitpur, where he remained until 31 August. The victim's nose and ribs were broken and he lost two teeth due to

the torture in police custody. The doctor put five stitches in his nose. The victim complains of severe pain in his back and memory loss, among other things.

1026. By letter dated 29 November 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received allegations concerning **S. M.**, a 16-year-old girl, resident of Bharaul-5, Bishalchowk, Bhaluwachauri village, Bharaul Village Development Committee -5, Sunsari District. On 10 November 2004 around 9 am, as she was walking towards the Sardu Khol river 500 metres 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 soldiers took the girl to a place called Jhosi, forced her to the ground and proceeded to gang rape her, stifling her screams. Afterwards, they took her to a wooded area behind her house, gave her Rs. 100 and a package of noodles, threatened 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 psychiatric department, where she is undergoing counselling for her ordeal. The girl's father submitted a First Information Report in the Area Police Office in Dharan on 11 November. No investigation has been carried out by the police.

1027. By letter dated 30 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Kanhaiya Lal Gupta** and his wife **Gayatri Devi Gupta**, owners of a teashop, both Indian nationals, residing at Maharajganj, Ward No. 3, Kathmandu Metropolitan, and their employee, **Sonam Gurung**. On 24 August 2004 at 2 pm, they were arrested in their teashop by two police officers from the Ward police station, Maharajganj, and taken to the station. At the station, upon the inspector's orders (whose name is known to the Special Rapporteur) Kanhaiya Lal Gupta was taken by two policemen to a room, verbally abused, beaten with a stick and punched on his back and thighs. Gayatri Devi Gupta was taken to a separate room and beaten for almost two hours with a pipe and stick on her head, arms, back, thigh, foot and sole. They were released around 4 pm the same day. On 15 September 2004, they filed a civil suit, claiming damages for the torture, in the District Court Kathmandu. They also demanded departmental action against the perpetrators. On 26 October 2004, two policemen arrested Gayatri Devi Gupta and Sonam Gurung and took them to the police station, where they were detained all night without food or water. The police verbally abused them and struck them with a plastic pipe, a stick and their fists. They were released the next day at around 1 pm. When Kanhaiya Lal Gupta visited the police station enquiring about the whereabouts of his wife, he was verbally abused and threatened with the closure of his teashop.

Urgent appeals

1028. On 17 December 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention with respect to allegations concerning:

1029. **Yuba Raj Chaulagain**, a 31-year-old taxi driver, Tinkune. On 3 September 2003 at 9 am, he was arrested by four members of the security forces and taken away in his taxi. A witness is reported to have seen him being taken to the army barracks in Singha Durbar. The second taxi that Yuba Raj Chaulagain owns was taken by members of the security forces on

13 October. Efforts to locate him, including visiting the army barracks in Singha Durbar, have so far failed.

1030. **Rebakala Tiwari**, a 21-year-old student at Padma Kanya Multiple Campus, Bagbazar, Chabahil. On 30 October 2003 at 2.30 pm, she was arrested at her home at by members of the security forces in plain clothes. Efforts to locate Rebakala Tiwari, including informing the National Human Rights Commission (NHRC), have so far failed.

1031. **Subash Shrestha**, an 18-year-old student at Saraswati Campus, Thamel, Jyatha. On 22 November 2003 at 7.30 pm, Subash Shrestha was arrested at his home by members of the security forces in plain clothes. His uncle was also reportedly arrested at the same time but released three days later. It is unknown where he was held, and efforts to locate him, including informing the NHRC, have so far failed.

1032. **Shaha Dev Ghimire**, a 29-year-old government surveyor in Meenbhawan, Kathmandu lives in Biruwa, Ghaktapur. On 22 November 2003 at 11 pm, he was arrested at his home by members of the security forces in plain clothes. Efforts to locate Shaha Dev Ghimire, including contacting the local police station and informing the NHRC and ICRC, have so far failed.

1033. **Lila Dahal**, aged 34, the Sindhupalchowk district committee president of the Nepal Mahila Sangh (Nepal Women Organization), a sister organization of the Nepali Congress Party, living in Batisputali-9. On 28 November 2003, she was arrested at her home at midnight by nine members of the security forces in plain clothes. The owner of the house was also arrested, but was released the next morning. He was blindfolded and does not know where they were taken. Efforts to locate Ms. Dahal, including informing the NHRC, the Home Ministry, and the Defence Ministry, have so far failed.

1034. **Ganesh Dhakal**, a 24-year-old teacher at New Summit Boarding School, Maitivdevi, Ghattekulo. On 3 December 2003 at 5.30 pm, he was arrested at his home by approximately 15 members of the security forces, five of whom were uniformed police, while the others were in plain clothes. Efforts to locate him, including informing the NHRC, have so far failed.

1035. By letter dated 8 November 2004, the Government informed that Ganesh Dhakal is detained at Bhairab Nath Military Barracks, Maharajgunj, Kathmandu, under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance No. 2061 (TADO).

1036. On 18 December 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Bhai Kaji Ghimire**, the managing director of *Samadristi* monthly magazine, Kalimati, Kathmandu. According to the allegations received, on 3 December 2003, he was arrested by the security forces as he was heading to work on his motorcycle. The reason for his arrest and whereabouts are unknown.

1037. On 18 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders regarding **Ram Krishna**

Adhikari, a reporter for the weekly *Saghu*. According to the allegations received, he has been missing since 10 December 2003. He was last seen attending a human rights event organised by the Human Rights Organization of Nepal (HURON), at the Hotel Orchid in Kathmandu. The journalist may have been detained by security forces and held at a secret location.

1038. On 15 January 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Hira Bahadur Rokka**, a street trader, residing in Bhotahity, Kathmandu. According to the allegations received, on 6 December 2003 at 1 pm, he was arrested on the street in Hanuman Chowk, Bhotahity, by 12 security forces personnel in plain clothes, using a van marked "Nepal Police". The reason for his arrest is unknown. When relatives made enquiries at the District Police Office in Hanumandokha, the police office stated that two persons had been arrested in Bhotahity, but they refused to identify them. Further attempts by his relatives to locate him, including contacting the NHRC, have so far failed.

1039. On 15 January 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Maila Tamang**, a 31-year-old trekking guide, Pokhara, Kaski district. According to the allegations received, on 4 January 2004 at 1 pm, he was arrested in Kathmandu after he went to the Traffic Police Office, Ram Shah Path, to lodge a complaint about being hit by a car. The traffic police sent him to Singha Durbar Ward Police Station where he was detained for two days for investigation into a car theft. He was subsequently transferred to Hanuman Dhoka District Police Office, Kathmandu, where he is believed to have been held incommunicado for several days. He was beaten on his back, thighs and buttocks with a wooden stick and kicked with boots by a police inspector. Lawyers who saw Maila Tamang on 12 January 2004 reported that a police inspector, present at the meeting, asked why the detainee had been given access to them when he had not yet been presented in court. A police officer interrupted their interview and took Maila Tamang away to the Interrogation Section in the Valley Crime Investigation Section, in another building in the Hanuman Dhoka DPO compound. On the same day, his lawyers filed a habeas corpus petition in the Supreme Court.

1040. On 16 January 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Khadka Singh Tamang**, a 30-year-old auto-rickshaw driver, residing at Dallu, Kathmandu. According to the allegations received, on 26 November 2003, he went to the Valley Traffic Police Office in Ram Shah Path, Kathmandu, in order to assist a friend. As he was leaving the office, he was taken away by two plain-clothes security forces. He is being held at Bhairab Nath Gan army barracks, in Maharajgunj, Kathmandu. When relatives attempted to visit him, the army denied that he was there. The reasons for his arrest are unknown.

1041. On 21 January 2004, the Special Rapporteur sent an urgent appeal with respect to allegations received concerning the unknown whereabouts of:

1042. **Pushpa Lal Dhakal**, a farmer, Village Development Committee 7, Jhapa District. At 3 pm on 13 January 2004, he was returning to his home by tractor from a market in Biratnagar, Morang District, when he was arrested by 15 security forces personnel. Pushpa Lal Dhakal had previously received threats from both the CPN (Maoist) and the security forces. CPN (Maoist) members pressured him to give them food and the security forces

suspected him of being involved in the CPN (Maoist) rebellion because he was visited by members of that group.

1043. **Gopi Bhandari**, a button factory owner, Balaju district, Kathmandu. At noon on 15 January 2004, he was arrested at his factory by five security personnel who took him away in an unmarked green van. His younger sister, **Nirmala Bhandari** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, para. 1202), is still missing since her arrest.

1044. On 3 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion regarding **Bhagirath Kharel** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, para. 1226). According to the allegations received, he was immediately re-arrested after he was released on bail on 30 December 2003. He is now held at the Central Jail, Kathmandu. Bhagirath Kharel was first presented to the Appellate Court on 27 November when police appealed for his detention to be extended to allow for further investigations under the 2002 Terrorist and Disruptive Activities (Control and Punishment) Act (TADA). For one week he was unable to contact his family and tell them that he was detained at Hanuman Dhoka police station. On 29 and 30 December 2003, he was taken to the Appellate Court where he was charged with being involved in anti-State activities under the TADA, and ordered to be released on bail until the trial on 11 February 2004. Police refused to release him when he signed the bail document, and did not take off his handcuffs until court staff protested. However, once outside the court, he was immediately re-arrested under the Public Security Act (PSA). He has a heart condition and since his arrest had only one health check up.

1045. By letter dated 21 May 2004, the Government informed that he is under police detention in Kathmandu as per the 1990 Security Act.

1046. On 4 February 2004, the Special Rapporteur sent an urgent appeal concerning **Basu Dev Sigdel**, a lawyer. According to the allegations received, on 22 January 2004 at around 10 am, three men in plain clothes from the security forces came to the law office where he worked and took him away. Although they said hewould return to the office soon, his family has had no news about him since. His arrest was reported to the Nepalese Bar Association (NBA) and the NHRC.

1047. On 6 February 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Tula Thapa**, aged 36, a teacher in Pashupati Secondary School, **Rajendra Adhikari**, aged 30, **Ram Bahadur Rana**, aged 30, and **Man Bahadur Shah**, aged 52, all from Bramhatole Village Development Committee (VDC), Bajura district. According to the allegations received, on 1 February 2004, they were arrested in Martadi and Bramhatole VDC by the police. Rajendra Adhikari and Ram Bahadur Rana were arrested on charges of agreeing to buy rice looted by members of CPN from the governmental Food for Work Programme, while Tula Thapa and Man Bahadur Shah have been arrested for unknown reasons. They are being detained in the District Police Office in Martadi, Bajura district headquarters, and have not been allowed access to their families or lawyers nor have they been produced before a court. Several witnesses have reported that all four are being seriously ill-treated and tortured while in police custody.

1048. By letter dated 19 July 2004, the Government informed that Tula Thapa and Man Bahdur Shah, detained on charges of illegally possessing homemade guns, were released on bail by the District Administration Office of Bazura on 1 March 2004. Rajendra Adhikari and Ram Bahadur have been presented to the District Administration Office on 6 February 2004 for further investigation.

1049. On 10 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression regarding **Narendra Maharjan**, a field supervisor for a bus company, a resident of Sagal, in Ward No. 5 of Kirtipur municipality, Kathmandu district. According to the allegations received, on 21 January 2004, he was arrested while at the company office in Kirtipur by five plain-clothes security forces, and taken away in a white Tata jeep. Since his arrest, his whereabouts are unknown.

1050. On 13 February 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 the right to freedom of opinion and expression regarding **Lekhnath Sapkota**, Lainchaur, in Ward No. 29, Kathmandu municipality. According to the allegations received, on 4 February 2004 at 2 pm, he was arrested at his office by three plain clothes security forces. He had been followed all morning before he was arrested. Lekhnath Sapkota has been arrested and held without charge on two previous occasions, in 2002 and in September 2003. On the latter occasion, he was released on 17 November 2003 on the orders of the Supreme Court. The police claimed he had been detained because he was working for the CPN (Maoist). No reasons have been given for his arrest this time and his whereabouts are unknown. His relatives have contacted the NHRC to locate him without success.

1051. On 16 February 2004, the Special Rapporteur sent an urgent appeal concerning **Jeetaman Basnet**, Ward No. 34, Santinagar, Kathmandu. According to the allegations received, on 4 February 2004 at 6 pm, he was taken away by three persons in army uniform outside his home, and has not been seen since. The NHRC, ICRC and the NBA have been informed of his "disappearance".

1052. By letter dated 21 May 2004, the Government informed that he is in police detention in Kathmandu. By letter dated 8 November 2004, the Government informed that he is detained at Bhairab Nath Military Barracks, Maharajgunj, Kathmandu under the TADO.

1053. On 16 February 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Laxman Prasad Aryal**, Ward No. 16, Machha Pokhari, Balaju, Kathmandu. According to the allegations received, on 29 January 2004 at 10.15 am, three plain-clothes security forces took him away from his workplace to Baluja army barracks by public transport. The NHRC, ICRC and the NBA have been informed of his arrest, but his whereabouts are unknown.

1054. On 16 February 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 the right to freedom of opinion and expression regarding **Sho Prasad Khatiwada**, Sitapaila. According to the allegations received, at 8 am on 3 January 2004, he

was arrested at his workplace by a group identifying themselves as security forces personnel. The ICRC and the NHRC were informed of his arrest, but his whereabouts are unknown.

1055. On 16 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression regarding **Gyan Bahadur Koirala**, owner of a truck haulage business, resident of Ward No. 5, Firkepul municipality, Kaski district, and **Maheshwar Pahari**, a journalist for the defunct *Rastriya Swabhiman Weekly*, a local newspaper in Pokhara, a resident of Buddha Chowk, Ward No. 10, Pokhara municipality, Kaski district. According to the allegations received, on 2 January 2004, both friends were arrested in separate incidents. At 8 am, about 25 uniformed army personnel Gyan Bahadur Koirala were inspecting some works a short distance outside of town at 8 a.m. on 2 January when reportedly came to arrest him. He was bound and held there for one hour before taken away in a convoy of about three vehicles. He has been seen in Pokhara and the surrounding area since his arrest, wearing an army uniform and seated in a vehicle between two army personnel. Maheshwar Pahari was arrested in Khorako Mukh village, Lwang Ghalel Village Development Committee, Kaski district, by a group of uniformed army personnel. They are believed to be held at Phulbari army barracks in Pokhara, which the army has denied.

1056. On 25 February 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 and the Special Rapporteur on the right to freedom of opinion and expression regarding two lawyers, **Bal Krishana Devkota**, Sita Paila Village Development Committee, Ward No. 2, Kathmandu, and **Dhananjaya Khanal**, a lawyer with the Central Legal Service, living in Sanepa-2 Lalitpu, Tanahun District, Kathmandu. According to the allegations received, on 21 February 2004, they were arrested in separate incidents, and their whereabouts are unknown. Around 11 pm, three plain-clothes security forces came to Bal Krishna Devkota's home, questioned him, searched the house and took him away for further questioning. At around 11 pm, Dhananjaya Khanal was arrested by a group of army personnel at his home.

1057. By letter dated 21 May 2004, the Government informed that there is no person by the name of Dhananjaya Khanal in police detention.

1058. On 26 February 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 the right to freedom of opinion and expression regarding **Mukunda Ghimire**, a 25-year-old political activist, Khartanchha VDC, Bhojpur district, and **Keshav Chudal**, a 25-year-old taxi driver, both living in Ghattekulo, Ward No. 32, Kathmandu municipality. According to the allegations received, on 3 February 2004, the two men were arrested in Ramshahpath by a group of plain-clothes security forces (one of whom is known to the Special Rapporteurs and the Chairperson-Rapporteur). Following their arrest, they were taken away in a blue van. Their current whereabouts are unknown.

1059. By letter dated 8 November 2004, the Government informed that Mukunda Ghimire was released from detention on 14 September 2004 from Jagnnath Dewal Detention Centre, Kathmandu.

1060. On 26 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression regarding **Purushotam Chudal**, a 20-year-old student, Ward No. 9, Shurunga VDC, Jhapa district. According to the allegations received, on the morning of 23 December 2003, he was staying at a friend's home in Shuketangi, Ward No. 1, Shurunga VDC, when a large group of armed plain-clothes security forces surrounded the house. Five of them removed him and took him away in the direction of the Charali army barracks, where he is believed to still be detained, although the army has denied arresting him or having him in custody there.

1061. By letter dated 8 November 2004, the Government informed that he is being detained at Dhankutta under the District Administration Office, Dhankutta.

1062. On 26 February 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 the right to freedom of opinion and expression regarding **Chandra Prasad Nepal** and his wife **Sabitri Nepal**, Ward No. 1, Belsi, Ratnanagar municipality, Chitwan district. According to the allegations received, on 17 February 2004 at 1 pm, about 20 soldiers arrived at their home, arrested them, and took them away on foot in the direction of the highway. They were then taken in a public transport minibus to Bhandara camp, the security post of the Unified Command (army and armed police force) for Chitwan district. Staff at the camp stated that the couple had been moved from there to an unknown location.

1063. On 26 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression regarding **Lok Krishna Bhattarai**, a member of the Lalitpur Bar Assocation and the General Secretary of the Pushpa Lal Memorial Foundation, residing in Baluwatar, Kathmandu. According to the allegations received, on 18 February 2004 four plain-clothes security arrived at his home. They told him to wear warm clothes, as he was to help them with their inquiries, and would be returned in two hours. They denied him permission to call his office before departing. Relatives of Lok Krishna Bhattarai have contacted human rights organizations and the press in Kathmandu regarding his whereabouts but have so far been unable to locate him.

1064. On 27 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression regarding **Shankha Buddha Lama**, an activist of the Nepali Congress Party and a social worker, Dhulikhel, Kavrepalanchowk district. He was the Constituency President for the Nepali Congress Party and was involved with several local social organizations, including as president of the District Committee of the NGO Federation of Nepal. According to the allegations received, on 24 February 2004 at 4 pm, he was in a committee meeting of the NGO Federation in Dulikhel when he was called outside by two plain-clothes security forces and taken away. Efforts to locate him, including visiting the district government offices, and army camps, including Surya Binayak Army Barracks, Bhaktapur district, have so far reportedly been unsuccessful.

1065. On 1 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 the right to freedom of opinion and expression regarding **Laxmi Pandey**, a journalist associated with the Nepal Press Union. According to the allegations received, on 21

February 2004 he was arrested by the security forces for questioning in Nawaparasi district. His whereabouts are unknown.

1066. On 3 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 violence against women regarding residents of Pokharichauri village, Kavre District. According to the allegations received, on 12 February 2003 at around 5 am, **Reena Rasaili**, aged 18, was killed by security forces. She was held for five hours prior to her death in a cowshed where she was raped. Bullet injuries to her head, breast and eyes, and injuries and scratches on the stomach and chest were found on her naked body. **S. C.**, aged 17, was beaten and killed by security forces. Injuries on the right cheek, stomach and below the right eye were found on her body. Her father, **Kedar Nath Chaulagain**, was severely tortured. A young boy, **T. L.**, was shot dead as well. On the following day, the national radio reported that three terrorists, namely Reena Rasaili, S. C. and T. L., had been shot dead during an encounter with the security forces in Pokharichauri village. Since the above-described incident, witnesses have been subjected to harassment. **M. S.**, a 15-year-old relative of Reena Rasaili, was arrested by security forces on 17 February 2004. As the soldiers could not find her mother, who was with Reena Rasaili just before her death, they arrested M. S. Her father was ordered to bring her mother to the Lamidada army camp as a condition for M. S.'s release. On 18 February 2004, he went to the Lamidada Army camp together his wife, the head master, the chairperson of the VDC and 28 other people from the village. The army authority denied the arrest and detention of M. S.

1067. On 2 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 the right to freedom of opinion and expression with respect to allegations received concerning:

1068. **Kaushalya Pokhrel**, aged 21, Chabahil, Kathmandu. On 29 November she was arrested when she was on her way home from visiting her sister in Dukuchhap VDC, Lalitpur district. She was believed to be held in Shree Jang Gan army camp, Singha Durbar, Kathmandu. Her family received a message saying that she had been released from Shree Jang Gan around 18 February 2004. However, she was not seen or heard of since her arrest, and it is believed that she might still be detained at an unknown location.

1069. Her brother, **Arjun Pokhrel**, aged 24, a member of the Kathmandu District Committee of the All Nepal National Independent Student Union (ANNISU) (Revolutionary), which is aligned with the CPN (Maoist). He was arrested in the afternoon of 26 November 2003.

1070. His wife, **Madhu Mandal**, aged 22, Manamaiju VDC, Kathmandu district, student at the Gramin Adarsha Multiple Campus, Kathmandu. On 16 December at 1 pm, she was arrested at her home by five plain-clothes security forces and taken away in a Tata mobile pick-up truck. Another member of the family was also arrested but later released. It is believed that both Madhu Mandal and Arjun Pokhrel are held at Bhairab Nath Gan army camp in Maharajganj, Kathmandu, although this has been denied by army sources.

1071. On 4 March 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Lal Prasad Ghemere**, a 45-year-old farmer and resident of Ward No. 1, Haraiya Village Development Committee, Bara district. According to the allegations received, on 10 February 2003, he was arrested following an armed encounter between security forces and members of the Communist Party of Nepal (CPN) (Maoist) in Ramnagar, Haraiya, Bara district. He was injured, but it is unknown whether he was actively involved in the fighting. He was beaten by security forces personnel and forced to dig a grave for a CPN (Maoist) member who was killed, which took him three hours. He was then taken away by around 15 security forces personnel in plain clothes. His current whereabouts are unknown.

1072. On 4 March 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression with respect to allegations received concerning:

1073. **Surendra Rai**, a 40-year-old carpet factory worker, resident of Nakkhu, Lalitpur Municipality, Ward No. 13, Lalitpur district. On 27 February 2004, he was arrested at his house by three security forces personnel in plain clothes. Since then, his whereabouts are unknown. The District Police Office in Lalitpur has denied his arrest. The NHRC, the Defence Ministry, the Home Ministry, the Human Rights Protection Centre of the Prime Minister's Office, and the main security force offices have also been informed about this case.

1074. **Ambir Babu Gurung**, aged 38, Ward No. 34, Panchkumari, Kathmandu municipality. On 16 February 2004 at midnight, he was taken away from his home by security forces personnel in plain clothes. He was told that he was needed for some inquiries, but no other details were given. Efforts by relatives to locate him, including informing the NHRC, have so far been unsuccessful.

1075. By letter dated 8 November 2004, the Government informed that Surendra Rai is being detained at Mahabir Military Barracks, Chauni, Kathmandu, under the TADO.

1076. On 4 March 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders regarding **Bhimsen Kumar Gautam**, a 40-year-old teacher, auditor, member of the Nepal National Teachers' Association and the Nepal section of Amnesty International, living in Shreenagar Tole, Minbhawan, Kathmandu municipality. According to the allegations received, on 3 March 2004, he was questioned and arrested at his home by security forces personnel. The security forces made a brief attempt to search the room before taking him away. His whereabouts are unknown, and efforts by relatives to locate him, including informing the NHRC, have so far been unsuccessful.

1077. 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 violence against women, regarding **R. A.**, a 13-year-old girl, Ward No. 8, Malta VDC, Lalitpur district. According to the allegations received, on 13 November 2003, she was arrested by plain-clothes security forces personnel in Thapathali, Ward No. 11, Kathmandu municipality, where she was staying with some relatives. The security forces

informed her family that she was taken for questioning and that she would be returned by the following morning. However, she has not been released yet. Soldiers have confirmed to her relatives that she is being held at Bhairab Nath Gan army camp. The reasons for her arrest are unknown and she has not been formally charged or presented before a court since her arrest four months ago. R. A. had been arrested on 8 September 2003 and held incommunicado at an undisclosed location until 27 October 2003.

1078. On 10 March 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning **Yamanath Lohani**, a 50-year-old teacher, Ward No. 9, Thananpati VDC, Nuwakot district. According to the allegations received, on 1 March 2004 at 10.30 am the bus he was riding in stopped for a routine check at Fhusredada, near the Shivapuri army camp in the northern end of the Kathmandu valley. Yamanath Lohani was detained by security forces personnel manning the post. The reasons for his arrest are unknown. He may be held at Gha Gul army barracks, Shivapuri. Efforts to locate him by relatives, including informing the NHRC, have so far been unsuccessful.

1079. On 10 March 2004, the Special Rapporteur sent an urgent appeal with respect to allegations received concerning:

1080. **Shita Ram Dhakal**, aged28, lives in Balaju, in Ward No. 16 of Kathmandu municipality. On 11 January 2004 at 8 am, he was arrested in a teashop near his home by three security forces personnel in plain clothes. He is held at Jagadal Gan in Chhauni army camp.

1081. **Prabhu Ram K.C.**, a 34-year-old building contractor, Panauti municipality, Ward no, 5, Kavrepalanchowk district. On 19 February 2004 at noon, he was reportedly having lunch with friends at Bagbazar when three security forces personnel in plain clothes took him away. He has not been seen since. Family members were able to contact him on his mobile phone on 20 February, and he told them that he was going to Butwal for a few days. They contacted him again on 25 February, but he was reluctant to speak and told them not to phone again. On 27 February, three security forces personnel came to search the family home, and left with a photograph of Prabhu Ram K.C. Reports suggest that he is held at Shree Jang Gan army camp, Singha Durbar. However, efforts to locate the two men by relatives, including informing the NHRC, have so far been unsuccessful.

1082. By letter dated 23 December 2004, the Government informed that Shita Ram Dhakal is currently detained at the Investigation and Enquiry Centre in Sundarijal, Kathmandu under the TADA.

1083. On 11 March 2004, the Special Rapporteur sent an urgent appeal concerning **Hari Prasad Acharya**, a 45-year-old poultry farmer, Dhading district. According to the allegations received, on 6 November 2003 at 1am, 20 uniformed soldiers and two men in plain clothes came to his house, searched the property, and took him away. He has not been seen or heard from since. Efforts by his family to find him, including informing the NHRC, and visiting army and police offices in Dhading and Kathmandu, have so far been unsuccessful.

1084. On 16 March 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention with respect to allegations received concerning:

1085. **Tej Mudbahri**, a 39-year-old, businessman, and his nephew, **Deepak Mudbhari**, a 22-year-old student, Bahinimarg, Balaju, Kathmandu. On 3 March 2004 around 1.30 pm, 14 security forces personnel in plain clothes arrived at their house in two vehicles, one black and one white, and took them away. Tej Mudbhari, previously arrested and detained in Balaju army on 12 February, was released on 26 February on condition that he report back every three days. He was due to visit the camp again on 4 March. The reasons for the arrests are unknown. It is believed that both men may be held in Balaju army camp, although efforts to locate them, including informing the NHRC, have so far been unsuccessful.

1086. **Bishnu Thapa**, a 30-year-old businessman, Mahadevbesi. On 3 February 2004, at 11.30 pm, three security forces personnel in plain clothes came to his house, he was put into a van and driven away. The reasons for his arrest are unknown. Relatives visited both Gajuri and Bhaireni army camps in Dhading district, but the army has denied that he is held in either place.

1087. **Om Prakash Timalsena**, a 30-year-old garment factory worker, Sitapaila. On 10 February 2004 at noon, he was taken away from his workplace in Kalanki, Kathmandu, by four security forces personnel in plain clothes. The reasons for his arrest are unknown. It is believed that he is being held at Jag Dal Gan, in Chhauni army camp, however, efforts to locate him, including informing the NHRC, have so far failed.

1088. **Saroj Babu Kuwar**, a 37-year-old restaurant owner, Machapokhari, Balaju, Kathmandu. On 5 March 2004 at 11.30am, he was taken away from his restaurant by five security forces personnel in plain clothes. It is believed that he is being held at Shree Jang Gan army camp, Singha Durbar, Kathmandu. The reasons for his arrest are unknown, and attempts to locate him, including informing the NHRC, the Home and Defence Ministries, and the Army Human Rights Cell, have so far been unsuccessful.

1089. 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 violence against women regarding **Navina Lama** (also known as Pasang), a 30-year-old painter. According to the allegations received, on 5 March 2004 at 9.45am, she was detained by a group of civilians following an explosion in the Ward Office of Ward No. 17, Lagankhel, Lalitpur district, and later handed over to security forces personnel. The Home Ministry has confirmed that she was arrested, however, her family has not been able to find out where she is being held.

1090. On 17 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 the right to freedom of opinion and expression, regarding **Dhani Ram Tharu**, the district secretary of the Bardiya District "Backward Society Education Society" (BASE) and presenter of a radio programme which caters for the Tharu people, a socially and economically deprived ethnic group in the southwest of Nepal. According to the allegations received, on 13 March 2004 at around 5.30pm, he and six colleagues of the radio programme

were in the office of the Youth Society Adult Education Service Forum, Nepalgunj, Banker District, when they were arrested by uniformed members of the Armed Police Force, on suspicion of involvement in Maoist activities. They were taken away in a white van with government number plates to Birendra Prahari Byayamshala police compound. Dhani Ram Tharu was blindfolded and taken inside, while the other six were taken to the District Police Office, and released the following morning. Dhani Ram Tharu has not been released and his whereabouts remain unknown. His arrest has been reported to the NHRC.

1091. On 19 March 2004, the Special Rapporteur sent an urgent appeal concerning **Binod Prabhat Ghimere**, a business student, Sijuwa VDC, Ward No. 8, Morang district. According to the allegations received, on 11 March 2004 at 9 pm, four security forces personnel came into the house in Kathmandu where he was staying with his relatives, and took him away. It is unknown why Binod Prabhat Ghimere was arrested.

1092. By letter dated 8 November 2004, the Government informed that he is being detained at the Morang District Prison, Biratnagar, under the TADO.

1093. On 19 March 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding **Chakrapadi Acharya**, a grocer, Niskot VDC, Ward No. 3, Myagdi district. According to the allegations received, on 8 March 2004 around 11.30am, 100 army personnel were marching through Niskot VDC, and some entered his shop. The army personnel slapped his father before taking Chakrapadi Acharya away. It is believed that he is being detained incommunicado at the army barracks in the Myagdi district headquarters.

1094. By letter dated 21 May 2004, the Government informed that soon after he surrendered before the local administration on 9 March 2004, he has been kept under the supervision of security personnel in Myagdi District Development Committee for his personal safety and security.

1095. On 22 March 2004, the Special Rapporteur sent an urgent appeal with respect to allegations received concerning:

1096. **Rajendra Roka**, a 23-year-old student. On 12 January 2004 at 1 pm, he was traveling by bus from Kathmandu to his home in Kuhu VDC, Ward No. 3, Myagdi district, when he was stopped at a security forces checkpoint at Amarsingh Chowk, Pokhara district. By the time he had passed through the checkpoint the bus began to depart. The security forces personnel arrested Rajendra Roka when he chased after the bus in the belief that he was running away from them. Relatives believe that Rajendra Roka was first held at Kali Prasad army barracks, Myagdi, and then moved to Bijapur Barracks, Pokhara, but they still have not had access to him.

1097. By letter dated 14 May 2004, the Government informed that Mr. Roka was not found to be under police detention as alleged.

1098. **Ram Bilas Mahato**, aged 35, and **Laxmi Mahato**, aged 27, both farmers, Belgachi VDC, Ward No. 9, Mahottari district. On 13 March 2004 at 3pm, they were blindfolded and arrested by security forces personnel outside a sugar mill in Ramnagar VDC. It is believed

that they were taken to the area police office in Gausala, Mahottari district. The police have denied their arrest. It is believed that they are being held in an army barracks in Mahottari district but the reason for their arrest remains unknown.

1099. By letter dated 23 December 2004, the Government informed that Ram Bilas Mahato and Laxmi Mahato are in detention under the TADA at the District Prison in Mahottari.

1100. **Durga Thapa**, a 38-year-old factory worker, Labu VDC, Lalitpur district. On 15 March 2004 at 11pm, he was arrested at his home by security forces personnel wearing masks and taken away in a blue Toyota van. The Lalitpur district police office has denied arresting him. Relatives have informed the NHRC of his arrest but his whereabouts and the reason for his arrest remain unknown.

1101. On 22 March 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention with respect to allegations received concerning:

1102. **Indra Raj Pathak**, a 25-year-old health worker at the Chatredeurali medical post, Dhading district. On 8 March 2004 around 5.30pm, while he was walking on a street in the Bhimsenthan area of Kathmandu, he was put into a van with government registration plates by two security forces personnel in plain clothes and driven to Kalimati. The NHRC, the Army and relevant government ministries have been informed of his arrest. There are reports that security forces personnel came to the Chatredeurali medical post and beat Indra Raj Pathak one month earlier because he was suspected of giving medical treatment to members of the (CPN) (Maoist).

1103. **Ramesh Dhungana**, a 36-year-old wholesaler, Balaju, Kathmandu. On 12 March 2004 around 8.30pm, two security forces personnel in plain clothes came to his house and led him away on foot. His whereabouts are unknown. The NHRC has been informed of his arrest, and the reasons for his arrest are unknown.

1104. **Ravindra Kumar Pudasani**, a 24-year-old owner of a metal pots shop, Samakhusi. On 16 March 2004 around noon, three security forces personnel in plain clothes came his shop and took him away in a van. His arrest has been reported to the NHRC and relevant government ministries, but the reasons for his arrest remain unknown.

1105. On 24 March 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, with respect to allegations received concerning:

1106. **Tikaram Bishwakarma**, Jorpati, Kathmandu. On 26 February 2004 at 8.30am, two security forces personnel came to his home and took him away by motorcycle. Efforts to locate him by his relatives, including informing the NHRC, and visiting police and army camps, have so far been unsuccessful.

1107. **Narayan Dhwaj Mahat**, Bidur municipality, Nuwakot district. On 16 March 2004 at 1pm, he was his workplace in the Land Revenue Office, Kalanki, Kathmandu, by two

security forces personnel in plain clothes. The reasons for his arrest are unknown, and efforts to locate him by his relatives, including informing the NHRC, and visiting police and army camps, have so far been unsuccessful.

1108. By letter dated 8 November 2004, the Government informed that Narayan Dwaj Mahat is being detained at Bhairab Nath Military Barracks, Maharajgunj, Kathmandu under the TADO.

1109. On 24 March 2004, the Special Rapporteur sent an urgent appeal concerning **Dhaniram Tharu** (cited in a previously transmitted communication).

1110. By letter dated 23 December 2004, the Government informed that he was detained under the TADA, and released on 16 February 2003.

1111. On 24 March 2004, the Special Rapporteur sent an urgent appeal, concerning **Sheshkanta Sharma Chapagain**, Kohalpur VDC, Banke district. Acccording to the allegations received, on 22 January 2004 at 11am, in the compound of the Supreme Court, he was abducted by unknown persons. He was petitioning for the return of vehicles confiscated by the security forces. Efforts to locate him by his relatives, including informing the NHRC, and visiting police and army camps, have so far been unsuccessful.

1112. On 2 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, with respect to allegations received concerning the unknown whereabouts of:

1113. **Sitaram Tamang**, Mahadevtar, Gangabu VDC, Ward No. 8, Kathmandu. On 24 March 2004 at 9pm, 10 uniformed security forces personnel came to his home and took him away in a van parked nearby. They told his wife that they would bring him back the same night or the next morning.

1114. **Surya Bastakoti**, Kushlechowr, Ward No. 16, Kathmandu. On 22 March 2004 at 9.50pm, six masked security forces personnel in plain clothes arrived at his home and took him away to the Sorakhutte police station in a blue Sorakhutte police van. When relatives visited the police station a short while later, they were told that he was had been moved to an unknown location. The next morning, the staff at the same station denied that he was held there at all, and suggested that the family try the National Police Academy, Maharajganj. There, the police denied that Surya Bastakoti was held there.

1115. By letter dated 21 May 2004, the Government informed that there is no person by the name of Surya Bastakoti in police detention.

1116. **Samundra Budathoki**, Manmaiju in Kathmandu. On 19 March 2004 at 10pm, two members of the Armed Police Force in plain clothes took him away in a blue van from the building site of his house.

1117. **Tuk Nath Dhungana**, Ward No. 5, Chauthe VDC, Nuwakot district. On the morning of 17 March 2004, he was arrested and taken away by around 20 security forces personnel while he was working in his fields.

1118. **Man Bahadur Shrestha**, Dhapasi, Kathmandu. On 11 December 2003 at 1am, a group of ten security forces personnel entered his home and took him away, telling his family that they were going to one of his factories and would return him soon.

1119. **Achyut Kumar K.C.**, Jivanpur VDC, Dhading district. On 17 November 2003 at 5 pm, as he was returning home from his farm with a load of rice, he was stopped by a security forces patrol. His hands were tied and he was forced to carry the rice in the direction of Kumari and Chaute VDCs.

1120. By letter dated 8 November 2004, the Government informed that he was released on 8 September 2004 from detention on the order of the Supreme Court.

1121. **Govinda Ghimire**, Chabahil, Kathmandu. On 29 August 2003 at 9am, about 12 security forces personnel in plain clothes arrived at his home and took him away to a waiting van.

1122. By letter dated 8 November 2004, the Government informed that he is being detained at Bhairab Nath Military Barracks, Maharajgunj, Kathmandu, under the TADO.

1123. On 7 April 2004, the Special Rapporteur sent an urgent appeal with respect to allegations received concerning the unknown whereabouts of:

1124. **Sane Adhikari**, a 55-year-old priest, Panchanagar VDC, Nawalparasi district. On 19 March 2004 at 5pm, he was arrested at his home by two Armed Police Force personnel in plain clothes from the Bindhya Basini APF camp. Sane Adhikari was told to show them where the village chairman's house was. After he complied, the men took him away for questioning on a motorbike with no number plates.

1125. **Jeet Bahadur Chaudhari**, a 28-year-old farmer, Panchanagar VDC, Nawalparasi district. On 20 March 2004 at 6am, he was arrested at his home by four personnel in plain clothes from the Bindhya Basini APF camp.

1126. **Krishna Bahadur Paudel**, a farmer, Panchanagar VDC. On 21 March 2004 at 5am, he was arrested at his home by ten uniformed APF personnel, who took him away for questioning. A notice was later put out by the security forces Unified Command, that he was arrested and being held in the District Police Office. Relatives tried to visit him there but the police refused all access to him.

1127. **Durga Datta Gautam**, **Tek Nath Sigdel** and **Guru Prasad Subedi**, Deureli VDC, Nawalparasi district. On 18 and 23 February 2004, they were arrested and are to be held at Kawasoti army barracks. The army denies all knowledge of their whereabouts.

1128. **Bhim Giri**, a 27-year-old student, and **Bhai Kaji Ghimire**, a journalist (cited in a previously transmitted communication). On 3 December 2003 at around 3pm, they were travelling west through the Chhetrapati area of Kathmandu when they were arrested. Bhim Giri was beaten by the security forces personnel when he shouted out. Ten minutes later, both

men were taken away in a car and their whereabouts are unknown since then. Efforts to locate them, including informing the NHRC of their arrests, have so far been unsuccessful.

1129. **Lok Prasad Bhurtel**, a 40-year-old accountant. On 15 March 2004 at 3pm, he was arrested by security forces personnel has he left his workplace, the Nepal Transportation Corporation, Teku, Kathmandu. It is believed that he may be held at Maharajgunj army barracks, Kathmandu. However, efforts to locate him, including informing the NHRC of his arrest, have so far been unsuccessful.

1130. On 14 April 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson of the Working Group on Enforced and Involuntary Disappearances and the Special Rapporteur on the right to freedom of opinion and expression, with respect to allegations received concerning:

1131. **Kedar Prasad Bidari**, Swayambhu, Kathmandu municipality. On 7 March 2004, four security forces personnel in plain clothes took him away by van from his workplace. It is believed that he is being held in Jag Dal Gan, Chhauni army camp. The army has denied this.

1132. **Ngadar Bhote**, a pig farmer, Ward No. 3, Mahankal VDC, Kathmandu district. On 17 March 2004 at 4am, a group of 15 Armed Police Force personnel arrived at his house, arrested and took him away on foot in the direction of the Boudha area of the city. His case has been sent to the NHRC.

1133. By letter dated 8 November 2004, the Government informed that Ngdar Bhote is being detained at a prison in Kathmandu under the TADO by the District Administration Office, Kathmandu.

1134. On 16 April 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Jhabaru Chaudhary** (also known as Jaya Kumar Chaudhary), a 37-year-old farmer, Makhanjhora village, Ward No. 6, Madhesha VDC, Sunsari district. On 9 February 2004 at 8am, security forces personnel arrived at his home, and arrested his 15-year-old son when he could not be found. Upon leaving the village, the soldiers arrested Jhabaru Chaudhary, who was on his way home. They released his son, and drove to Itahari camp, the Eastern Region Army Headquarters. Jhabaru Chaudhary was seen three days later sitting in an army truck as it patrolled the village. Since his arrest, he is being held incommunicado at the camp. Relatives visited the camp several times to visit Jhabaru Chaudhary, but the soldiers denied them any visits.

1135. By letter dated 23 December 2004, the Government informed that he is in detention under the TADA at the District Prison, Biratnagar, Morang.

1136. On 26 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the right to freedom of opinion and expression,concerning an order banning public demonstrations and the assembly of more than five persons within the Kathmandu Ring Road and Lalitpur areas issued by the Kathmandu District Administration on 8 April 2004. According to the allegations received, following this, demonstrations of lawyers, journalists

and other people to protest against the current situation in the country have been violently repressed. On 9 April 2004, several **hundred lawyers** were arrested following a demonstration and released. On 11 April, the security forces arrested **50 journalists** in Kathmandu, and released them after detaining them for two hours. On the afternoon of 15 April, over **1,000 peaceful demonstrators** were arrested and then held in warehouses and other overcrowded and unsanitary locations unsuitable for the detention of prisoners – in many cases for a number of days – before being released without charge. Three students and 11 political party members, who participated in the protests, including the President of the Nepali Congress, **Girija Prasad Koirala**, are still being held in preventive custody under the Public Security Act. Some of those arrested continue to be held incommunicado. **200 journalists** from different locations in Kathmandu were arrested by the security forces on 17 April, and held at several detention centres before being released the same day. At least two journalists arrested on 16 April 2004 were beaten and released on the morning of 17 April. On 21 April, **300 to 500 lawyers** were arrested during a peaceful demonstration in Kathmandu, organized by the Nepal Bar Association. The lawyers were arrested and taken to Mahindra Police Club where they were subsequently released but were unable to seek legal representation during the time of their arrest. In this respect, the Special Rapporteurs continue to express their concern for the arrest and detention of other journalists and lawyers over the past few months, in particular the lawyers **Shyam Kumar Shrestha** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, para. 1221), **Gopi Krishna Thapaliya** (cited in a previously transmitted communication, ibid, para. 1225), **Gopi Bahadur Bhandar**, **Basudev Sigdel** (cited in a previously transmitted communication, see above), **Krishna Silwal**, **Laxman Prasar Ayral** and **Jeetaman Basnet** (cited in a previously transmitted communication, see above).

1137. On 26 April 2004, the Special Rapporteur sent an urgent appeal with respect to allegations received concerning:

1138. **Radha Baitha**, a teacher, Ward No. 4, Sirsia VDC, Parsa district. On 5 April 2004 at 2pm, he was arrested by a group of 15 security forces personnel in plain clothes at his house. He was asked by the men to go with them for questioning. Some villagers informed that he would be released the following day, after completing some formalities. His relatives were assured by the major in charge of Birganj army barracks that he would be released a week later. When he was not released, his family visited the barracks, and this time the major denied that he was detained there. The case of Radha Baitha was reported to the Defence Ministry and the Home Ministry, and to the NHRC on 19 April 2004. His whereabouts remain unknown.

1139. **Bhuwan Sen** (also known as Chham Bahadur Sen), Ward No. 2, Baglung district. On 20 March 2004, he was arrested in Ward No. 7, Tarakhola VDC, Baglung district, by over 50 security forces personnel. After his arrest he was seen in Baglung Bazar handcuffed and blindfolded. His whereabouts are unknown since his arrest.

1140. By letter dated 8 November 2004, the Government informed that he is being detained at a prison in Baglung, Baglung District, under the TADO.

1141. **Prakash Timalsena**, a 30-year-old factory worker (cited in a previously transmitted communication, see above). According to the new information received, his family was

informed that he was being held at Chhauni army barracks in Kathmandu. However, there has been no official confirmation of his location.

1142. On 12 May 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Raj Kumar Limbu** (also known as Raju), a 37-year-old owner of a hardware store, **Madan Limbu**, a 48-year-old owner of a vegetable store, and **Padam Hari Paudel**, a 49-year-old ex-serviceman, all from Kumarigal, Kathmandu, Ward No. 7. According to the allegations received, on 18 April 2004 at 1.30 pm, five security forces personnel in plain clothes arrived first at Raj Kumar Limbu's shop, then went to Madan Limbu's shop, where they arrested Maden Limbu. The security forces personnel returned for Raj Kumar Limbu and took both men away in a red van towards Gausala. Around 7pm the same day five security forces personnel in plain clothes arrived at Padam Hari Paudel's home and took him away in a red van with Raj Kumar Limbu and Madan Limbu inside. The reasons for their arrest and their whereabouts are unknown. Raj Kumar Limbu was unable to carry his medication when he was arrested, and that Padam Hari Paudel suffers from a heart condition.

1143. On 8 June 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women regarding **Chini Maya Majhi**, aged 34, president of a the NGO Mahila Utthan Sangh, living in Kathmandu Metropolitan City-4, Chandol. According to the allegations received, on 31 May 2004 at 10pm, she was arrested by seven security forces personnel in plain clothes and taken away in a jeep. Prior to taking her away, they made her husband sign with his thumbprint a document he was not allowed read. The reason for her arrest and her current whereabouts are unknown.

1144. By letter dated 8 November 2004, the Government informed that she was released on 7 June 2004.

1145. On 9 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 the right to freedom of opinion and expression regarding **Phulmaya Dahal**, aged 19, **Chandra Bahadur Prasai**, aged 22, **Devraj Pradhan**, aged 38, **Dilliram Rijal**, aged 36, and **Gangaram Lamitade**, aged 45, all refugees from Bhutan living in Beldangi refugee camps, Jhapa district. According to the allegations received, on 2 June 2003, Chandra Bahadur Prasai from Beldangi I camp was arrested by 10 plain clothes security forces personnel. He was taken to the Armed Police Camp, Damak, and then to the Police District Headquarters, Chandragadi, the next morning. He was beaten during his interrogation. On 3 June, Phulmaya Dahal, Devraj Pradhan, Gangaram Lamitade, all from the same camp, and Dilliram Rijal, from Beldangi II camp, were arrested by security forces. Except for Gangaram Lamitade, who was first taken to Damak Police Station, the others were taken to the Armed Police Camp. All are currently held in the Police District Headquarters. Fifteen-year-old J. T. was arrested and taken to the Armed Police Camp but released the same day. Parbati Khadka was arrested, taken to the Damak police station, and released on condition that she report everyday until a decision concerning her is made. The five above-mentioned persons are held in incommunicado detention on suspicion of their involvement with the CPN (Maoist).

1146. On 11 June 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson of the Working Group on Enforced and Involuntary Disappearances and the

Special Rapporteur on the right to freedom of opinion and expression regarding **Jetendra Khadka**, a 23-year-old grocery shop keeper. According to the allegations received, on the night of 18 May 2004, he was arrested by around 15 security forces personnel in Tinthana VDC-9, Kathmandu district, and taken away in an army van. The security forces personnel told his relatives that he was needed for an inquiry. His whereabouts since then are unknown. His family visited the Panighat barracks, Thankot, several times but was informed that Jetendra Khadka was not in their custody. His arrest was reported to the NHRC, the Home Ministry and the Ministry of Defence, the Human Rights Protection Centre, the Prime Minister's Office, and to the security forces on 28 May.

1147. On 21 June 2004, the Special Rapporteur sent an urgent appeal concerning **Narayan Poudel**, a 38-year-old man from Mahadevsthan VDC, Kavre, and a member of the local organizational committee of the Communist Party of Nepal (UML). According to the allegations received, on 10 June 2004, he was arrested by a group of 70 security personnel at his home. He was last seen on 15 June 2004, when security personnel tried to intimidate the villagers by marching with Narayan Poudel handcuffed through Mahadevsthan VDC. His whereabouts are unknown since then. A local human rights organization informed the NHRC and the Home Ministry and the Defence Ministry about his case.

1148. On 23 June 2004, the Special Rapporteur sent an urgent appeal, concerning **P. P.**, age 17, **Prasanta Tharu**, age 18, **Tilak Ram Chaudhary**, age 30, **Tika Ram Giri**, age 41, **Mani Ram Chaudhary**, age 21, **Sher Bahadur Oli**, age 28, and **Deshu Ram Tharu**, age 25. According to the allegations received, they were arrested between October 2003 and February 2004, by army personnel from the Imangagar Army Barracks. They were all held incommunicado, including the child, for about 10 days and subjected to torture and other forms of ill-treatment. They were later moved to Banke district prison in Nepalgunj. With the assistance of a lawyers' group, their relatives filed *habeas corpus* petitions on their behalf in the Appellate Court, Nepalgunj. When the court asked for more information about the detainees, the office of the Chief District Officer claimed that six of them had already been released. On 29 February 2004, the court quashed the petition filed on their behalf, without examining the office's claim. On 4 March 2004, a second petition was filed in the same court on their behalf. On 20 June 2004, the court found that all seven were detained illegally and issued an order for their release. On 21 June 2004, the seven were released. Immediately after their release, they were followed by plain clothes security forces personnel. A group of lawyers and human rights activists brought the seven and members of their families to the offices of Advocacy Forum for safety. The security forces personnel have surrounded the office, and although they have not entered the building, they are waiting outside to re-arrest them.

1149. On 1 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson of the Working Group on Enforced or Involuntary Disappearances, regarding **Nati Shrestha**, a 35 year-old contractor, Chadeswori VDC-6, Tokha, Kathmandu. He was an elected Ward-Chairman of VDC-6 from Nepali Congress in 1997 local elections. According to the allegations received, during the night of 22 June 2004, he was arrested at his home by 13 armed security personnel in plain clothes, handcuffed and taken away. The following day, he was taken back to his house. They informed Nati Shrestha that explosive materials had been found in his house and took pictures of him surrounded by these materials. He was later taken away to an unknown location. The reasons for his arrest have not been disclosed yet and

his whereabouts are unknown since 23 June 2004. The NHRC, the Defense Ministry, the Home Ministry and other relevant authorities have been informed on this case by a local human rights organization.

1150. 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 violence against women and the Special Representative of the Secretary-General on the situation of human rights defenders regarding **M. S.** (cited in a previously transmitted communication), and Ms. **Bimala B. K.**, aged 20, Kharelthok VDC- 4, Kavre, who witnessed the arrest of M. S. According to the allegations received, on 11 February 2004 at around 10am, she was returning home from Bhagvati Temple when she was arrested by the police of Bhagvati Station on suspicion of being a Maoist. A the police station she was severely beaten, hit with plastic pipes, her head was submerged in water, her knees and feet were sliced with a sharp blade, and salt and chili powder were sprinkled over the injuries. She was gang-raped by soldiers over 15 consecutive nights. She was 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 together to Shantigate Army Barracks and to Panchkal Centre, where they were kept in separate rooms and beaten. Bimala B. K later reported that she had heard M. S. screaming. On 19 February 2004, Bimala 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 varying responses. On one occasion she was told that she had been killed. On 24 March 2004, Bimala B. K. was transferred from Dhulikhel Police Station to a women's prison. No detention warrant has been issued by any judicial authority. A foreign embassy was informed by the army that M. S. was 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.

1151. On 9 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson of the Working Group on Enforced or Involuntary Disappearances regarding **Gopal Maharjan**, a 44-year-old businessman, Kathmandu Metropolitan City-30, Jyahta. According to the allegations received, on 4 July 2004 at 1.30am, he was arrested at his house by 11 armed security personnel in plain clothes. He was put in a Maruti Gypsy Jeep (registration No. Ba 1 Chha. 6713) and taken away towards Thamel. Three people reportedly witnessed the arrest. The reasons of his detention are unknown and his whereabouts have not been disclosed yet. The incident has been reported by his relatives and a human rights organization to the NHRC, the Defence Ministry, the Home Ministry and other relevant authorities.

1152. On 12 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the right to freedom of opinion and expression regarding **Babu Raja Prajapati**, aged 38, treasurer of Jyapu Malagut hi and member of All Nepal Peasants Organization, Kathmandu District Chapter, resident of Myehapi, Kathmandi Metropolitan City-6. According to the allegations received, on 6 July 2004 at 11am, he was arrested by some four security personnel in plain clothes at his residence. They searched his house and interrogated him about the tenants. He was taken away in a van and since then his

whereabouts have not been disclosed. His wife witnessed his arrest. She reported the case to a human rights organization, which in turn sent an appeal to the NHRC, the Defense Ministry, the Home Ministry and other relevant authorities.

1153. By letter dated 8 November 2004, the Government informed that he was released from detention on 20 August 2004.

1154. On 13 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the right to freedom of opinion and expression, regarding **Hari Sharan Maharjan**, aged 23, Bosigaun, Ward No. 3, Satungal VDC, Kathmandu district. According to the allegations received, on 2 July 2004 at 4 pm, he was taken away by security forces personnel from his workplace, Satungal VDC. Since then his whereabouts are unknown.

1155. On 19 July 2004, the Special Rapporteur sent an urgent appeal concerning **Yek Raj Basnet**, **Khagendra Sambahamfe**, **Ram Bahadur Ingaram** and **Tek Bahadur Bista**. According to the allegations received, on 15 January 2004, a detention order was issued against them, authorizing their detention for 90 days under the Public Security Act (PSA). They were held in Morang District Prison. The detention order was later extended for a further 90 days to mid-June 2004. Although the detention order expired, the detainees did not want to leave the jail as they were concerned that they would be targeted or killed by security forces after their release. On 14 July 2004, they were brought to Morang District Court to be released in the presence of a judge, in accordance with the PSA. The judge requested four lawyers from the district Bar Association to sign a document confirming that they had been present when the detainees were released. It is reported that as soon as Mr. Yek Raj Basnet, Mr. Khagendra Sambahamfe, Mr. Ram Bahadur Ingaram and Mr. Tek Bahadur Bis left the court chambers, they were re-arrested by security forces in plain clothes. They were forced into a vehicle and taken away to an unknown location. Their whereabouts are unknown since then.

1156. By letter dated 8 November 2004, the Government informed that Yek Raj Basnet, Khagendra Sambahamfe and Tek Bahadur Bista are being detained at a prison in Morang, Biratnagar, Morang District, under the TADO. By letter dated 9 December 2004, the Government informed that Ram Bahadur Ingaram is being detained at the District Prison, Morang, Biratnagar.

1157. On 28 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning Pushpa **Lal Dhakal** (cited in a previously transmitted communication, see above), **Pushpa Neupane**, aged 50, Damak municipality, Ward No. 11, Jhapa district, **Yam Giri,** aged 22, Pachgachi VDC, Ward No. 1, Jhapa district, **Deepak Budathoki**, aged 28, Dharampur VDC, Ward No. 5, Jhapa district, **Syam Tamang**, aged 46, Nuwakot district, and **Dev Raj Rai**, aged 25, Bhojpur district. According to the allegations received, Pushpa Lal Dhakal was held at Charali Army barracks during the first ten days of detention in January 2004. There, he was beaten and his ribs were broken. He was later transferred to Chandragadi Prison, where he was held under the TADA. His family was allowed only four visits to the Chandragadi prison. On 25 July 2004, Jhapa District Court, Chandragadi, Bhadrapur municipality, ordered the release of the above six mentioned men. However, they were re-arrested by around 50 security forces personnel in

plain clothes immediately after they left the court, and were taken away in a van headed towards Charali Army barracks. The arrested men have had no access to their lawyers and relatives. On 26 July 2004, Pushpa Lal Dhakal's family was told by an officer at Charali Army barracks that he was being held there following his arrest. They were also told that they would be allowed to see him if they returned to the army barracks on 1 August 2004.

1158. By letter dated 8 November 2004, the Government informed that Yam Giri is being detained at a prison by the District Administration Office, Jhapa District, under the Security Act. By letter dated 9 December 2004, the Government informed that 0 Morang, Biratnagar.

1159. On 30 July 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning **Ajaya Shahi**, a 24-year-old butcher and member of the Kathmandu branch of the Newa National Liberation Front, living in Tusal Tole, Boudhanath Marg, Kathmandu municipality, Ward No. 6. According to the allegations received, on 19 July 2004 at around 11am, he was arrested at his place by six security forces personnel in plain clothes and taken away. The security forces said that they wanted him for inquiries. His whereabouts are unknown since then. His case has been reported to the Defence and Home Ministries, the head of the security forces, the NHRC, and the Human Rights Promotion Centre in the Prime Minister's office.

1160. On 12 August 2004, the Special Rapporteur sent a joint urgent appeal with Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the right right to health and the Special Representative of the Secretary-General on the situation of human rights defenders, with respect to allegations received concerning:

1161. **Jaya Bahadur Lama**, **Ramesh Lama**, **Binod** and **Madan**. On 25 July 2004, the four men were stopped by the police at about 3.30am in a street near Jamal, forced into a police van, beaten and had their money taken. While driving around the city, the van stopped and one officer took Jaya Bahadur Lama out into the street, beat him, forced him to perform oral sex and anally raped him. The men were then taken to Gausala police station where Ramesh Lama was taken into the backyard of the police station, beaten and forced to perform oral sex. Although Jaya Bahadur and Ramesh Lama manage to escape from the police, Binod and Madan were kept inside the van and were beaten and raped by approximately 12 policemen for around three hours. The Blue Diamond Society, a non-governmental organization which campaigns for the rights of sexual minorities, made a complaint to police authorities about this attack and the recent arrests may be in retaliation for this complaint.

1162. **39 male transvestites** ('metis'). On 9 August 2004, all members of the Blue Diamond Society, they were arrested on the street and in public places including bars and restaurants. They are now held in Hanuman Dhoka police station and were not given food or drinking water for their first 15 hours in custody.

1163. On 20 August 2004, the Special Rapporteur sent an urgent appeal concerning **Yuba Raj Chalagain** (cited in a previously transmitted communication, para. 1030) According to new allegations received, he is currently held at Singha Durba army barracks. He has been beaten in custody and that he is not allowed visits. He has not been given any explanation yet as to the reasons for his detention.

1164. By letter dated 10 November 2004, the Government informed that he was released from detention on 24 September 2004 on the order of the Supreme Court. By letter dated 23 December 2004, the Government informed that he is being detained under the TADA at the Investigation and Enquiry Centre in Sundarijal, Kathmandu.

1165. **Rebakala Tiwari**, **Subash Shrestha**, and **Shaha Dev Ghimire** (cited in a previously transmitted communication, para. 1034).

1166. On 6 September 2004, the Special Rapporteur sent an urgent appeal, concerning **Jahid Ali Sai**, a 30 year-old farmer, Bankattee VDC. According to the allegations received, on 21 August 2004 at 5pm, approximately 100 soldiers surrounded and searched his home, and arrested him along with the owner of the house. The two men were tied up with rope and taken to Shi Kali Dal army barracks, Nepalgunj, Banke district. While the owner of the house was released on the following day, Jahid Ali Sai was kept in detention at the army barracks. The army denied that he was in their custody. A local human rights organization has appealed without success to local army officials to make his whereabouts known. The reasons for his arrests have not been disclosed.

1167. On 15 September 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Tek Nath Sidgel**, **Guru Prasad Subeti**, and **Durga Datta Gautam** (cited in a previously transmitted communication, para. 1128). According to new allegations received, on 15 April 2004, a human rights organization filed a habeas corpus petition on behalf of their families in the Supreme Court of Nepal. An order was issued asking the authorities to present the detainees in court. Local authorities, including a local army brigade and the Chief District Officer (CDO), responded to the court by denying the arrest and detention of the men. Tek Nath Sidgel and Guru Prasad Subeti were later remanded for 90 days in accordance with a detention order issued on 6 June 2004 by the CDO of Nawalparasi under the "Terrorist and Disruptive Activities (Control and Punishment) Act" (TADA). On the afternoon of 4 September 2004, members of their families accompanied by journalists and representatives of local human rights organizations went to Nawalparasi prison to demand their release. Both men were eventually released by the prison administration on the same day. However, the two men were immediately re-arrested outside the prison by security forces personnel, although the detention order had expired. The men were put in a jeep and taken away to an unknown location. It is also reported that the whereabouts of Durga Datta Gautam, who was arrested in Nawalparasi district on 18 February 2004, is still unknown.

1168. By letter dated 23 December 2004, the Government informed that Durga Datta Gautam was killed on 20 March 2004.

1169. On 22 September 2004, the Special Rapporteur sent an urgent appeal, concerning **Dil Bahadur Baniya** (also known as Mr. Bhimsen Baniya) a 19 year-old businessman, and **Bharat Paudel**, a 25 year-old teacher, both living in Ekantakuna place, Lekhnath municipality, Ward No. 11, Kaski district. According to the allegations received, on 16 September 2004 at around 12:30pm, Dil Bahadur Baniya was arrested from his shop at Begnash Lake bus stop in Leknath municipality by four security forces personnel in plain clothes. He was put in a white jeep and driven towards Tal Chowk. Since then, his whereabouts are unknown. At the same time, Bharat Paudel was arrested from New Light Secondary Boarding School, Sishuwa place,

Lekhnath municipality, Ward No. 8, by six security forces personnel in plain clothes. He was put in a jeep and driven towards Brigade No. 3 of the Royal Nepalese Army (Bijayapur Barrack), Kaski. Since them, his whereabouts are unknown. Several public appeals for their release have been made by local human rights organizations. Their cases have been brought to the attention of the NHRC, the Defence Ministry, the Home Ministry and other relevant authorities.

1170. On 23 September 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 the right to freedom of opinion and expression, regarding **Man Bahadur Budhamagar**, a 22 year-old farmer, Basneuta VDC. According to the allegations received, on 16 September 2004 at around 12:30pm, he was put into an army van by members of the Royal Nepal Army, blindfolded and taken to the Majaha Gaon Army Barrack, Mahendra Nagar, Kanchanpur District, where he is believed to be currently detained. He has been denied access to his family and lawyers. Man Bahadur Budhamagar had already been arrested on 17 August 2004 and detained at the above-mentioned barracks until 2 September 2004. During this period of detention, he was subjected to repeated assaults by members of the Army, aimed at extorting information on Maoist activities. Man Bahadur Budhamagar required medical treatment after his release.

1171. On 29 September 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **R. S. D.**, age 17, and his father, **Bal Krishna Dhakal**, a teacher. According to the allegations received, on 18 June 2004, R. S. D. was arrested by security forces personnel when he was walking home from college in Chitwan district. He was taken to an unknown location and his family did not receive any information about his whereabouts for the first 22 days of his detention. They were later informed that he was being held in Bharatpur army barracks, but they were not allowed to visit him. On 23 August 2004, Bal Krishna Dhakal was arrested and detained in the same barracks for four days before being taken to prison. He had been detained one month earlier in connection with a bank robbery investigation, and was severly beaten in detention. It is unknown whether he has been charged or brought before a judicial authority.

1172. On 29 September 2004, the Special Rapporteur sent a joint urgent appeal with Special Rapporteur on the independence of judges and lawyers, regarding **Govinda Damai**, an 18 year-old man belonging to the Dalit community. According to the allegations received, on 19 July 2004, he was arrested without warrant by security forces personnel from Rajhena, Banke. On 23 July 2004, the Chief District Officer of Banke district signed a detention order and he was remanded for three months' preventative detention pursuant to the Public Security Act. On 26 September 2004, the Nepalgunj Appellate Court ruled that he had been illegally detained and ordered his release. However, he was re-arrested on the following day and taken away by security forces. His whereabouts are unknown since then. The District Police Office Banke has denied knowledge of his detention. There is concern that this case may reflect a growing trend in recent months of persons being re-arrested by security forces as soon as they are freed by the courts, directly undermining the authority of the courts.

1173. On 29 September 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 the independence of judges and lawyers, regarding **J. K.**, age 16, and his father,

Keshu Ram Kewat, age 50, both residents of Betahani VDC-5, Banke district. According to the allegations received, on 15 April 2004, they were arrested by the army in Nepalgunj, Banke district, blindfolded and taken to Fultekra barracks. During the first four days of their detention they were kept blindfolded, beaten with wooden sticks and electric wires, while being questioned about the activities of Maoist forces. They were not given access to their family members, lawyers and medical services. On 31 May 2004, the army handed them over to the District Police Office Banke and they were detained under the Public Security Act until 19 September 2004, when the Nepalgunj Appellate Court ordered their release from preventive detention. However, on 20 September their lawyers and family members were informed that they had been re-arrested by the police. They were detained in the Wada Police Office, Nepalgunj.

1174. By letter dated 23 December 2004, the Government informed that both are in detention under the TADA at the District Prison, Nepalgunj, Baanke.

1175. On 14 October 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 right to freedom of opinion and expression, regarding **Yagya Dhakal**, publisher and chief editor of "*Aawaj Weekly*", and from Shantinagar, Kathmandu. According to the allegations received, on 9 October 2004, he was taken by security forces personnel to an undisclosed location.

1176. 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 violence against women and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Bimala B. K**. (cited in a previously transmitted communication, para. 1151). According to new allegations received, she is currently held in Kathmandu Prison, having been in custody for almost six months without charge, and subjected to torture. Concern is heightened by recent reports confirming that **M. S.** (cited in previously transmitted communications, para. 1068 and 1151), died in custody.

1177. On 22 November 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the right to freedom of opinion and expression, regarding **Prakash Thapa**, a 36 year-old construction worker, Kapan VDC, Kathmandu district. According to the allegations received, on 10 November 2004 at 11:30pm, he was arrested at home by six security forces personnel. Three of the men were wearing plain clothes, while the other three wore army uniforms. They searched the house and took away a computer and Prakash Thapa's mobile phone. They said that they were taking him away for questioning and would inform the family when the investigation was completed, in about two to three days. Prakash Thapa was taken away in a pick-up truck with the license plate "Ba 1 Cha 3923". His family members have visited local army barracks but have been unable to locate him. Prakash Thapa is a member of Amnesty International.

Follow-up to previously transmitted communications

1178. By letter dated 4 May 2004, the Government provided informed that the following persons are not under police detention: **Deepak Pandey** (E/CN.4/2004/56/Add.1, para. 1173);

Ramesh Sharma (ibid, para. 1174); **Prithwi Kumar Prajapati** (ibid, para. 1175); **Navin Pun**, also known as **Biswas** (ibid, para. 1197); **Ek Nath Chaulagain** (ibid, para. 1200); **Hari Dev Mandal** (ibid, para. 1222); **Sanjay Raya** (ibid, para. 1223); **Gopi Krishan Thapaliya** (ibid, para. 1225); **Saha Dev Risal**, **Purushottam Sapkota**, and **Jagatkrishna Pokharel** (ibid, para. 1228); **Sanjiv Kumar Karna** (also known as **Dipu**), **Pramod Narayan Mandal**, **Sailendra Yadav**, **Jitendra Jha**, and **Durgesh Kumar Labh** (ibid, para. 1231); and **Shiva Prasad Gautam** (ibid, para. 1237).

1179. By letter dated 6 May 2004, the Government responded to a letter dated 9 September 2003, concerning, **Kumar Lama** (E/CN.4/2004/56/Add.1, para. 1186). The Government informed that he has been released on bail.

1180. By letter dated 8 November 2004, the Government provided information concerning **Dev Bahadur Maharjan** (E/CN.4/2004/56/Add.1, para. 1254). The Government informed that he is being detained at Jagdal Military Barracks, Chauni, Kathmandu under the TADO.

Observations

1181. The Special Rapporteur draws attention to statements issued on 9 March and 14 July 2004, jointly with other experts of the Commission on Human Rights, concerning the deteriorating human rights situation in Nepal in the context of the conflict between the Government and the Communist Party of Nepal (Maoist). In view of the large number of allegations received by the experts and transmitted to the Government, they expressed concern about the harassment of journalists, teachers, lawyers and trade unionists; allegations of disappearances of suspected Maoist sympathizers; torture and other forms of ill-treatment of detainees, particularly those held incommunicado; and the impunity of security forces responsible for human rights violations, as well as the indiscriminate attacks against civilians by boths sides of the conflict.

Netherlands

1182. On 28 May 2004, the Special Rapporteur sent an urgent appeal concerning **Nuriye Kesbir**, a Turkish national of Kurdish origin. According to the allegations received, she is detained in the Penitentiary Institution in Breda and is facing imminent forcible return to Turkey. It is reported that her extradition is sought concerning allegations that she is a member of the illegal terrorist organization PKK, with responsibility for training female terrorists and planning and carrying out terrorist activities in Sirnak province, Turkey, between 1993 and 1995. It is reported that Nuriye Kesbir denies the charges and maintains she was a member of the women's organization YAJK (Yekitiya Azaden Jinen Kurdistan), which reportedly promotes the rights of Kurdish women.

1183. By letter dated 19 July 2004, the Government informed that it will not grant an extradition request unless it is of the opinion that there are sufficient safeguards that the extradited person will receive a fair trial and be treated in accordance with internationally accepted human rights standards. The Government has been in touch with the Turkish authorities about this case. The assurances received from them are being studied and form an integral part of the decision-making process with regard to the extradition request. The

Minister of Justice will take a decision on the extradition request as soon as possible. All relevant aspects of the case of Ms. Kesbir will be taken into account and will be given due consideration.

Nigeria

1184. By letter dated 6 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Gbenga Faturoti**, a correspondent for the "Daily Independent" newspaper, Osun State. On 25 June 2004, he was beaten by a group of policemen in Osogbo. Gbenga Faturoti was sitting in the press gallery covering a session of the House of Assembly of the State Parliament when his mobile phone rang. The Assistant Superintendent of Police (whose name is known to the Special Rapporteur) ordered the journalist's arrest and detention for failing to switch off his mobile phone. A police sergeant (whose name is known to the Special Rapporteur) slapped him in the face twice while other policemen dragged him on the floor out of the House before he was arrested. In the process, he sustained injuries to his body.

1185. By letter dated 26 November 2004, the Government informed that on 25 June 2004, during the lie-in state of the former Minister of Internal Affairs, the Speaker of Osun State House of Assembly appealed that everyone present should switch off all mobile phones and observe a minute silence. During this his phone rang. This was viewed as an act of disobedience and he was ordered out of the Gallery. As he was remorseful, he was allowed to stay. No formal report of manhandling or torture was lodged with the police.

1186. **Valentine Nwankwere**, a businessman. On 2 January 2001 he was shot in his car by a policeman (whose name is known to the Special Rapporteur), who was accompanied by other policemen, and sustained a bullet wound to his right thigh. Valentine Nwankwere was taken to the Nwaorubi Police Station, Mbaitoli Ikeduru Local Government Area, Imo State, where he was chained and locked in solitary confinement. His two cousins were also locked up but later released. He was later transferred to the Crack Squad Department, Owerri, where he was held in the "Mortuary Cell". Valentine Nwankwere was not taken to the Federal Medical Centre Owerri until eight days had elapsed.

1187. By letter dated 30 November 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations, concerning **Uja Emmanuel**, a correspondent for *The Sun* newspaper, Makurdi, Benue State. On 21 July 2004, when he went to the Benue State Police Headquarters to investigate the alleged abduction and detention of a fellow journalist by police, his camera and tape recorder were destroyed by police officers acting on the orders of the Assistant Commissioner of Police (whose name is known to the Special Rapporteurs). The Assistant Commissioner of Police also ordered his men to beat the journalist as a deterrent to others.

Urgent appeals

1188. On 3 May 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 the right to freedom of opinion and expression, regarding **Buba Galadima**, a

member of the Conference of Nigerian Political Parties (CNPP) and chairman of the mobilization committee of the CNPP. According to the allegations received, he was arrested at his office on the evening of 29 April 2004, by intelligence officers from the State Security Services. He is being detained incommunicado without charge..

1189. On 9 July 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 the right to freedom of opinion and expression, regarding **Kola Oyelere**, a correspondent for the *Nigerian Tribune* newspaper. According to the allegations received. on 4 July 2004, he was arrested by the police of Kano State. He was detained in a cell in the State Criminal Investigation Department, tortured, and prevented from taking his medication for typhoid fever. The next day he was charged by a Kano State Magistrate with publishing false information. This was in connection with an article he co-authored, entitled "Panic in Kano as fresh crisis looms", 4 July, the *Sunday Tribune*. His case will be heard on 29 July, and pending the completion of the police investigations, he was remanded in custody.

1190. On 8 September 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 the right to freedom of opinion and expression, regarding **Raphael Olatoye**, age 47, production manager of *Insider Weekly magazine*, **Cyril Mbamulu**, age 32, distribution officer, and a **security guard**. According to the allegations received, on 4 September 2004 around 2pm, at the magazine's office in Lagos, Raphael Olatoye was arrested by officers of the State Security Service (SSS), and taken away to an unknown location. The SSS officers arrested Cyril Mbamulu and the security guard the next day and took them away to an unknown location. They are reportedly detained without charge. The magazine has published stories critical of the government. The SSS officers are occupying the building.

1191. On 20 September 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 the right to freedom of opinion and expression, concerning **Isaac Umunna**, an editorial consultant for the Lagos-based weekly "*Global Star*" and general editor of the London-based magazine "*Africa Today*". According to the allegations received, on 9 September 2004, he was arrested by members of the State Security Service (SSS), and detained at its Lagos State headquarters. On 14 September, he was suffering from diarrhea and was taken to the SSS clinic where no doctor was available to attend to him. On 15 September, his wife was told that he had been transferred to another location.

1192. By letter dated 25 November 2004, the Government informed that he was invited by the State Security Service (SSS) to its headquarters in Abuja on 16 September 2004, in connection with national security investigations, and was released on the same day. He was seen off to the Abuja Airport by officials of the SSS, where he boarded a flight to Lagos.

1193. 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 violence against women, regarding regarding Ms. **Hajara Ibrahim**, age 18, from Lere Local Government Area of Bauchi State, and Ms. **Daso Adamu**, age 26, from Ningi Local Government. According to the allegations received, they were both sentenced to death by stoning by sharia courts in Bauchi

State following trials which were considered as unfair by their current legal representatives. On 5 October 2004, Hajara Ibrahim was sentenced by a sharia court in Tafawa Balewa, after she reportedly confessed to having had sex out of wedlock. According to the sharia court judge, the sentence was subject to the approval of the Governor of the Bauchi state. Ms. Ibrahim is currently seven months pregnant, and her sentence is 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 non-governmental organization (NGO), Hajara Ibrahim appealed the sentence. Her appeal is scheduled for a hearing on 25 October 2004. On 15 September 2004, Daso Adamu was handed the same sentence by a sharia court of Ningi area for extramarital relations. The male co-accused was acquitted for lack of evidence. She was detained in Ningi Prisons with her three-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 Shari'a Court, Ningi was adjourned till 3 November 2004.

Pakistan

1194. By letter dated 18 June 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1195. **Abdul Ghafoor**. He was arrested in Lahore by a police official of Nawakot on 7 January 2003 on suspicion of trafficking in drugs. He was taken to a police station where he was subjected to interrogation, bribes and torture, which reportedly resulted in his legs being broken. The Nawakot police claimed that he broke his legs while trying to escape from the second floor of the police station. An inquiry was ordered in connection with this case.

1196. **T. A.**, a 10 year-old boy. Around 19 September 2003, he was arrested at his home by police officers from the Qadirpur police station, Jhang District, led by an assistant sub-inspector (ASI) (whose name is known to the Special Rapporteur). They sought to arrest his father and brother, who were suspected of illegally cutting grass from the landlord's farms. When the police officers could not find his brother at home, T. A. was arrested instead and taken, along with his father to the Qadirpur police station lock-up. At midnight, the two were taken to the interrogation room, where an ASI and a Constable (whose names are known to the Special Rapporteurs) beat them in order to find out the whereabouts of T. A.'s brother. Because his father was suffering from tuberculosis, the police officers beat the child more severely. The boy and his father were eventually released. They were presented to the District Police Officer on 25 September 2003 and on 26 September 2003. The above-mentioned ASI has reportedly been suspended from his functions. However, it is said that no serious action has been taken to investigate this case, which has not been registered.

1197. By letter dated 23 November 2004, the Government informed that he, his father and another man were summoned and interrogated by the police in connection with a case. T. A. was found innocent and sent home.

1198. **Ameer Bukhsh**. On 19 November 2003, he was taken in remand in Vehari by an ASI (whose name is known to the Special Rapporteur). While in custody flesh was chopped off from his legs by the ASI. A few days later, he was sent back to judicial remand, then to Multan Central Jail, where he was refused due to his poor condition, and then taken back to

Vehari. The ASI who was believed to be responsible for the acts of torture and ill-treatment has reportedly been summoned for interrogation.

1199. **Jalal Din Lakho** and his son, **Salah Lakho**. On 21 February 2004, they were arrested for theft by Karachi police officers (whose names are known to the Special Rapporteur), under the pressure of an influential tribe. While in custody, they were subjected to torture, forced to sodomize each other, and later released. A case has been filed against the police officers allegedly involved.

1200. **Mushtaq Ali**, head constable. On 25 February 2004, he was summoned by the Crime Investigation Agency, Model Town, for an inquiry into a bribery case. He was arrested by a sub-inspector (whose name is known to the Special Rapporteur) who suspected him of having accepted a bribe during the investigation of a murder case. While in custody, Mushtaq Ali was subjected to torture and other forms of ill-treatment by the above-mentioned sub-inspector. As a result, he reportedly passed pus and blood in his urine and stool. It is reported that his kidney may have been severely damage. He has been threatened with death by the sub-inspector. An inquiry into this case has reportedly been ordered by the High Court.

1201. **Rai Mazhar**, a lawyer from Tandiawala. On 13 March 2004, he was arrested in Faisalabad, forced by the police to eat his stool in custody, had a ring put around his nose, and was dragged naked in the streets. No action has been taken against those suspected of having subjected Rai Mazhar to this treatment.

1202. **Azam**. On 17 March 2004, he was arrested in Khanewal by Kacha Khoo police on suspicion of robbery. While in custody he was subjected to severe torture, including having rollers rolled over his legs, as a result of which his legs and arms became paralyzed, his ribs were broken, and he suffered a bleeding rectum. As his condition deteriorated, he underwent a medical examination under the supervision of the Medical Superintendent of the District Hospital. It is alleged that the team appointed to conduct the medical examination at the District Hospital was bribed by the police for issuing a false medical report declaring him to be medically fit. He was later referred to another doctor who noted that he could hardly walk, was bleeding and had sustained broken ribs. This doctor reportedly ordered another medical examination. The police officials who took the detainee to the hospital claimed that his condition was the result of an attempted suicide.

1203. **Rafiq Dogar**. On 19 March 2004, he was assaulted by police officers from the Pak Pattan police station. He was taken to the fields and acid was thrown on his genitals, which were severely burnt as a result. The police officers broke two of his teeth and threatened him not file a complaint. Rafiq Dogar was admitted in a serious condition to the District Headquarters Hospital. No action has reportedly been taken to launch an investigation into this case and prosecute those held responsible.

1204. By letter dated 25 June 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government responded to some by letter dated 27 December 2004:

1205. **Samuel Sunil**, an 18 year-old member of the Christian minority in Pakistan. He was arrested by police officers from the Qilla Singh Police Station on 9 August 2003, accused of theft by his employer, the proprietor of an Internet café on Mall Road. The sub-inspector from the Qilla Singh Police Station (whose name is known to the Special Rapporteurs) and other officers tortured him in front of his employer, and he was sent later that day to Camp Jail Lahore and detained with convicted criminals. There he was sodomized by three inmates. When Samuel Sunil made a complaint about the assault to the prison officials, a Deputy Superintendent (whose name is known to the Special Rapporteurs) ordered Samuel Sunil to be punished along with his assailants, as he was viewed as being party to the crime of sodomy. He was then subjected to severe torture which resulted in his death on 19 August 2003. The jail officials hung his body by the neck from a ceiling fan in order to make his death appear to have been a suicide. An autopsy report, however, noted signs of sodomy and suggested that torture was the cause of death. A case has been registered against the Prison Superintendent, Jail Warden, and the three prisoners who assaulted him.

1206. **Zafar Iqbal**. On 30 September 2003, he was handed over to Westridge Police Station, Rawalpindi Division after he was caught by a group of civilians who accused him of robbery. Since his handover to the the Station House Officer (SHO), there was neither a First Information Report (FIR) registered against Zafar Iqbal, nor was he produced before the court. Despite the police's claim that Zafar Iqbal was released, he died in police custody as a result of torture and his body was disposed of. A Superintendent of the Police (SP), whose name is known to the Special Rapporteurs and who was identified as a complainant in a FIR lodged against the policemen, stated that he could not find Zafar Iqbal during his inspection of the police station, and that there was no record of the arrest of the accused. The Deputy Inspector General (DIG) of Rawalpindi Division ordered the registration of a murder case against the responsible police officers. The SHO of Westridge police station and two constables were taken into custody and a FIR was registered on charges of abduction and hiding a person under the pretext of killing him.

1207. The Government informed that the authorities are conducting judicial and departmental inquiries. One police officer has been remanded in custody, another has been released on bail, while another has been declared a proclaimed offender in the case.

1208. **Shahid**, age 41. On 1 March 2004 he was beaten to death by members of the Kotwali police in Lahore, when he was visiting his neighbors. The police raided the neighbours' house on suspicion that they were involved in a forgery case. Shahid was severely beaten on the head and collapsed and the policemen continued beating, kicking and hitting him with the butts of their rifles and guns. Shahid, who was a heart patient, died as a result of this treatment. His body was dragged into the street by the policemen, who told the other neighbors that he was only unconscious and prevented them from approaching or taking him to the hospital. Witnesses claimed that his body was covered with bruises, in particular on the chest, back, arms and ribs. A FIR has been filed against the policemen and a sub-inspector has been identified as responsible for murder.

1209. The Government informed that there is no such police station in Lahore and no person named Shahid was beaten up on 1 March 2004 by the staff of this police station. There is, however, a Crime Investigation Agency (CIA) Centre in Kotwali, and information

regarding a custodial death on that date could not be substantiated in the records. More details, if available with the Special Rapporteurs, would be appreciated.

1210. 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 violence against women, the Special Rapporteur notified the Government that he had received allegations concerning **H.**, an eight year-old girl, and **S.**, a five year-old girl. They went missing on 21 February 2004 in Karachi. Their disappearance was reported to the Gadap police station, where the officials declined to register a case, and were reluctant to look for the children. 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. 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.

1211. By letter dated 15 September 2004, the Government informed 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.

1212. By letter dated 21 July 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received information concerning **Samuel Masih**, 30 year-old resident of Saidan Shah, Lahore. According to the allegations received, he was charged with blasphemy and sent to Kot Lakhpat Jail for trial. He was admitted to the Lahore General Hospital on 19 May 2004 in critical condition after a police constable hit him on his head with an iron bar while in detention. The constable who attacked Samuel Masih was sent to jail after a case was registered against him. Samuel Masih later died in hospital after remaining in coma for three days. His body was handed over to his family after an autopsy was carried out. His family did not pursue the case as they were reportedly scared of the police. Mr. Masih was in jail since August 2003 and no lawyer was appointed to defend his case.

1213. By letter dated 21 July 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning:

1214. **Shahid**, age 41 (cited in a previously transmitted communication, para. 1209).

1215. **Imtiaz**, age 28. At the end of March 2004, he was arrested in Hafizabad by the Chak Chatta police for stealing wood and sent to Sub-Jail Pindi. He died under suspicious circumstances in jail, allegedly tortured to death by the prison staff. However, the jail authorities stated that Imtiaz was a drug-addict and died as a result of withdrawal. There was no investigation into his death.

1216. **Javed Anjum**, age 19. On 17 April 2004, he was drinking water from a tap outside the seminary Madrassh Jamia Hassan, Chak No. 323/G. B., district of Toba Tek Singh, Punjab, when the superintendent of the seminary, enquired about his identity. When the students learned that Javed was a Christian they took him into the seminary and tried to force him to convert to Islam. On refusal, the teacher, along with his students, severely tortured him for five days. According to the hospital record, he had 26 injuries and three fractures on his left arm. He was handed over to the police on 22 April on charge of robbery, but due to his critical physical condition, he was taken to the Allied Hospital in Faisalabad and succumbed to his injuries on 2 May 2004. The police had initially refused to register a case against the perpetrators, allegedly because of the influence of the religious parties. Arrests were only made on 5 May 2004. Javed Anjum's family was asked to settle and withdraw the case.

1217. By letter dated 29 July 2004 the Government informed that Javed Masih entered the Madrassa on 17 April to drink water. He was tortured when some students and the teacher mistook him for being a tap thief. He received 12 injuries including a fatal blow to the kidney. He was released on 23 April, and was recovered by his relatives from the Toba Tek Singh Railway gate in a serious condition. Javed Masih was admitted to the Allied Hospital Faisalabad and died on 2 May. A First Information Report was registered against the teacher and two unknown persons. The teacher is in police custody and investigations are being carried out.

1218. **Abdul Wahid**. He died of torture at the Agoki police station on 28 May 2004. Reports indicate that the Agoki police registered a case against the Assistant sub-inspector Haji Ikhlaq who was still hiding at the time of writing this report.

1219. **Abdul Haq**, age 75. He was arrested on 3 June 2004 on charges of theft by police officers from Kanjwani Police Station. He was tortured at the station where he died. The police claimed that the he died from a heart attack on the way to the station and transferred his body to the Tehsil Headquarters Hospital in Tandlianwala. The Garah police have registered a case against the policemen and three of them have been arrested.

1220. **Zafar Iqbal**. He was arrested by the Saddar Nankana police and died in custody on 3 June 2004. He was reportedly tortured to death by the police for not paying them a bribe of Rs. 240,000. The police alleged that he was admitted to the Nankana Hospital for treatment of kidneys where he passed away due to high blood pressure and kidney problem. Zafar Iqbal was reportedly a healthy man and had never suffered from blood pressure or kidney problems. Reports indicate that his body bore marks of torture. The police denied the allegations and claimed that he had died of heart failure. No inquiry was held against the killing of Mr. Zafar Iqbal.

1221. **Munir Ahmed**. He was arrested on 15 June 2004 by the Abadpur police in Rahim Yar Khan, on charges of kidnapping. The police subjected Mr. Ahmed to severe torture while in custody and subsequently threw him away in a canal. His body was recovered on the following day. His body bore marks of torture. Although the local population stage a protest against the police and demanded an inquiry into the death, no inquiry was conducted as the police alleged that he had committed suicide.

1222. By letter dated 4 August 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received allegations concerning:

1223. Ms. **Sakina**, 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. Sakina and the occupants of her house. Sakina, 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. Sakina 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. Sakina filed a complaint with the Additional District and Sessions Judge.

1224. Ms. **Zakia Sultan**, 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, Assistant sub-inspector, and a policeman.

1225. **Mariam Sultana**. 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.

1226. By letter dated 4 August 2004, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government responded by letter dated 2 November 2004:

1227. **Imran** (also known as Mani). On 6 May 2004, Imran, who was detained in the Daska City Police Station lock-up in relation to a theft investigation, was admitted to hospital in a critical condition. According to the police, Imran injured himself in the lock-up by banging his head against the bars in order to escape further questioning. However, no investigation was held to determine whether Imran had injured himself or if he had been tortured by the police.

1228. The Government informed that he was immediately taken to hospital for medical treatment, and a case of attempted suicide was registered at the police station. He was subsequently found guilty and sentenced to detention. The rumours of severe torture are baseless.

1229. **Mohammed Aslam**. In April 2004, he was arrested by the Mitro police in Multan and held in several different locations for one month before his whereabouts were made known to his family. He was kept blindfolded for 20 days, and made to stand continuously, day and night, for several days. He was tied to a cot and rollers were rolled over his legs and feet. As a result of the treatment, his eyesight has been affected, and he has difficulties

walking and moving his limbs. He was produced before his family blindfolded, and the police officials, including the Station House Officer, demanded bribes from his mother, sister and niece for meeting him. The police also demanded a bribe of Rs. 6,000 for Mohammed Aslam's release and for not framing him on fictitious charges. The High Court ordered an inquiry into the incident, and the findings have not yet been made public.

1230. The Government informed that he was arrested on 5 May 2004 in relation to an armed robbery investigation and remanded into custody for four days on 6 May. He was produced before the Lahore High Court, Multan on 7 May 2004, who ordered the Deputy Registrar (Judicial) to have Mohammad Aslam medically-examined. On 20 May 2004, the judge ordered Mohammad Aslam to appear for an inquiry before the Deputy-Superintendent of Police/Sub-division police office (DSP/SDPO), Mailsi. The DSP/SDPO concluded that the police did not torture him, that the injuries were not caused by the police, and the allegations were false. In fact, one day after his arrest he was produced before the court.

1231. **Abdul Wahid** (cited in a previously transmitted communication, para. 1219).

1232. The Government informed that a First Information Report, dated 27 May 2004, was registed at Uggokey police station, Sialkot, against five police officials. During the course of the investigation all of the accused were found innocent, and an investigation to arrest the real perpetrators is underway.

1233. By letter dated 21 October 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received allegations, concerning:

1234. **Mumtaz**, Manga Mandi. On 11 March 2004, she was alone at home when a neighbor 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.

1235. **Mussarat Shaheen**, 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 Mussarat Shaheen 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 from the government that this case should be placed before an anti-terrorism court. Despite the fact that the incident was reported to the police, no action was reportedly taken against the perpetrators.

1236. A **teenage girl**, Chappar Khan Jamali village, Johi taluka. She was sexually assaulted by 10 people in a 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 a 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.

1237. **S. B.**, a girl from the village of Sheikhupura. 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.

1238. **Four 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 some policemen stopped them near Jamia Babul Aloom on the Masoom Shah Road at about 2:30am. 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 were gang-raped within 12 hours of the examination, and that they had multiple torture marks 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 unmasked the alleged culprits involved in the gang-rape and claimed that no policeman was found involved in the incident.

1239. By letter dated 27 October 2004, the Government responded that in some of the cases transmitted incomplete information has been provided, including the names of the victims, which make it difficult for the authorities to trace the facts of the case. In order to undertake investigations this information would be appreciated.

1240. By letter dated 9 November 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received information concerning **Saima Zahoor**, a reporter with the Urdu-language daily Express. On 10 July 2004, she went to meet with the deputy secretary of the Environment Ministry, to seek his comments on the issue of pollution in Rawal Lake. The official became angered by her questions, called in a security guard and ordered him to throw her out of the office. When the journalist protested against the official's behaviour, he slapped her, dragged her and locked her in a room. She was released when the police arrived.

1241. By letter dated 9 November 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning:

1242. **Saifullah Kharal**, age 26, and **Riasat Ali**, Mangtanwala, Lahore. On 20 June 2004, they were arrested at a vegetable market by Mangtanwala (Nankana Sahib) police on suspicion of stealing a car, and detained at the station. Both men were severely beaten in

custody by the Station House Officer, Assistant sub-inspector, a constable, and a station clerk (whose names are known to the Special Rapporteur). Saifullah Kharal subsequently died in custody after being detained for 12 days. Two days before his death, his sister came to the station with his meal, and found the police beating him, threatening him to confess, including threatening to beat his sister if he did not confess. He died at 1am on 1 July. The body was sent for a post-mortem examination. A case was registered against the officials and reported to the Human Rights Commission of Pakistan.

1243. **Qari Mohammad Noor**, a cleric. In August 2004, he was detained for alleged links to the al-Qaeda terrorist network in a raid on an Islamic school in Faisalabad. According to the police, he died in custody on 18 August 2004 from a heart attack. However, his post mortem reports have not been made public and it is alleged that he was beaten in detention and had nearly 180 marks on his body.

1244. By letter dated 9 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1245. **Asif,** Gawalmandi, Lahore. On 3 June 2004, he was passing through Sundar Das Road on his motorbike with a friend when four officials of the Mujahid Squad stopped them and started searching them. The police claimed that they recovered a firearm from their possession, which the two men denied. A policeman took out a rifle and shot Asif in his leg, breaking it. Three policemen remained at the scene, interrogating him, ignoring his pleas for medical help. Witnesses reportedly intervened, beating the policemen, and once Asif's family arrived they took him to the hospital for treatment.

1246. **Zubaida Bibi**, Chak 615 G. B. Tandlianwala, Faisalabad. On 9 June 2004, she was abducted by a sub-inspector (whose name is known to the Special Rapporteur) in relation to an anti-corruption case she was pursuing against him. He held her for two days during which he beat her and threatened her to withdraw the case she had filed against him.

Urgent appeals

1247. On 20 January 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding **Khawar Mehdi Rizvi**, a journalist (cited in a previously transmitted communication, E/CN.4/2004/62/Add.1, para. 608). According to the allegations received, the Federal Investigation Agency (FIA) has denied before two Sindh High Court judges that he was in their custody. According to information received, the FIA Deputy Director and the Deputy Prosecutor made their statement on 13 January 2004, in response to a habeas corpus petition lodged by the lawyer for Mr. Rizvi's family. However, high level Government officials, including the Foreign Ministry spokesman, recently said that the journalist was being held by the security services for "investigation". The court has to date had no access to Mr. Rizvi or to his file, the latter being held incommunicado in an unknown location since his arrest. The Sindh High Court judges called on the federal government to appear before the court on 20 January and explain Mr. Rizvi's situation and the official reasons for his detention.

1248. By letter dated 25 February 2004, the Government informed that Khawar Mehdi Rizvi, along with two others (Abdullah Shakir and Allah Noor) were involved in making a

fake movie on the Taliban for the French journalists, Joel Marc Epstein and Jean-Paul Guilloteau of the weekly, L'Express. They were charged by the Quetta police and presented before a court in Quetta on 30 January 2004, and again on 16 February. The proceedings are underway and the decision will be conveyed in due course.

1249. By letter dated 10 June 2004, the Government informed that the case of Khawar Mehdi Rizvi is not pending in any anti-terrorist court. The Anti-Terrorist Courts are established under the Anti-Terrorist Act 1997 and there is no provision in the Act under which a military officer may sit with a civilian judge on the bench of the court. It is submitted that these courts are established by the Government after consultation with the Chief Justice of the High Courts and Judges are also appointed after his consultation. Almost all the Judges of the Anti-Terrorism Courts are Sessions Judges or Additional Session Judges, who are sub-ordinates to High Courts. The Anti-Terrorism Courts in Pakistan are functioning and working independently without any interference of the Government. Khawar Mehdi Rizvi has already been granted bail and the case is pending.

1250. On 22 April 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 the right to freedom of opinion and expression, concerning **Zulfiqar Ali Khaskheli**, a correspondent for the Hyderabad-based, Sindhi-language daily "Ibrat" in the town of Nawabshah. According to the allegations received, he was severely beaten by police, and was admitted to the People's Medical College Hospital in Nawabshah. Zulfiqar Ali Khaskheli may lose his eyesight and hearing. Visitors have not been allowed to see him, and he is under arrest and chained and handcuffed in the hospital. It is believed that Nawabshah's chief of police, a District Police Officer (whose name is known to the Special Rapporteurs), arrested Mr. Khaskheli on 11 April 2004 in relation to a report on gambling operations in the district under his command.

1251. By letter dated 10 June 2004, the Government informed that Zulfiqar Ali Khaskheli developed differences with another man and threatened him with harm. A complaint was filed and Zulfiqar Ali Khaskheli was arrested and later released on bail. He organized a hunger-strike and rallies against the District Police Officer for allegedly committing torture on him during detention. The allegations are false and fabricated.

1252. On 28 April 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 the right to freedom of opinion and expression regarding **Sami Yousafzai**, a journalist from Afghanistan working for "Newsweek" magazine, and his driver. According to the allegations received, on 21 April, Eliza Griswold, a journalist and citizen of the United States of America, Mr. Yousafzai, and their driver were arrested at a checkpoint in Bakhakhel, near Bannu, as they attempted to enter North Waziristan, without the necessary authorization. The three were questioned for several hours and then allowed to return towards Peshawar. However, it is believed that security forces or the intelligence services re-arrested them near Bannu. Ms. Griswold was expelled from the country a few days later, but Mr.Yousafzai and his driver are still being held in a secret location.

1253. By letter dated 10 June 2004, the Government informed that Sami Yousaf Zai was released from custody on 2 June 2004. He has not been deported to Afghanistan and is allowed to stay in Pakistan until his visa expires in two months.

1254. On 4 June 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding **Diwan Hashmat Hayat**. According to the allegations received, on 3 April 2004, he was attacked by a mob outside his house because he asked a neighboring mosque to make less noise. Despite his serious injuries, he was arrested and taken to Jhelum District Central Jail, Punjaab, where he was beaten on the orders of the jail authorities. He is charged with blasphemy under section 295-C of the Pakistan Penal Code, which carries a death sentence for the offence of defiling the Prophet Mohammed. He is being held in solitary confinement in Jhelum District Central Jail, in unsanitary conditions, without sufficient food or appropriate medical treatment for his injuries. It is alleged that he was given painkillers only after his family agreed to pay a bribe of 3,000 rupees (USD $52), and is denied sufficient food and clean bedding because his family could not pay a second bribe.

1255. By letter dated 7 July 2004, the Government informed that on 11 July 2003 a complaint was filed by him at 7:45pm, concerning the threatened demolition of his home by neighbouring residents. At 10:30pm a mob arrived and looted and demolished the building. An investigation into the incident confirmed this. However, because Diwan Hashmat Hayat neither pursued the case nor presented evidence, the perpetrators were not prosecuted, and the case is suspended. On 3 April 2004 Diwan Hashmat Hayat was arrested in relation to a homicide. The blasphemous acts of Diwan Hashmat Hayat and his companions, and the killing have resulted in the unrest of the local population.

1256. On 14 September 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 the right to freedom of opinion and expression, concerning **Sarwar Mujahid**, a 42 year-old journalist of the Urdu-language daily "*Nawa-i-Waqt*". According to the information received, on 31 July 2004 he was arrested without a warrant at his home by the police of Okara District, Punjab Province, under the Maintenance of Public Order Act, which states that a person may be detained for three months if the government feels they represent "a threat to public order." He was beaten at the time of his arrest and has been held in incommunicado detention at Sahiwal Prison ever since. He is suffering from diabetes.

1257. By letter dated 13 December 2004, the Government informed that on 28 July 2004, he was arrested on orders issues by the Provincial Government for disrupting public order. On 27 July 2004, the journalist was involved in a scuffle outside the Session Court Okara with the representative of the police. He was arrested and detained in Sahiwal prison, and later released on 30 September. His arrest and detention was in accordance with the provincial law and he was not subjected to any beating or torture.

Follow-up to previously transmitted communications

1258. By letter dated 20 December 2003, the Government provided information concerning:

1259. **Nazir Ahmed** (E/CN.4/1995/34, para. 538). The Government informed that a case was registered against two police officers following a judicial inquiry. During the trial on 19 October 1994, the accused were acquitted and a settlement was reached between the parties.

1260. **Mohammad Tariq** (ibid, para. 543). The Government informed that he was never arrested or detained in North Nazimabad, Taimuria or Sh. Noor Jehan Police Station. The allegations are baseless.

1261. **Shamin**, (ibid, para. 548). The Government informed that a case of rape was registered against the perpetrators, however during the course of the investigation the allegations were found to be false, and the case was disposed of.

1262. **Ghulam Hussain Magsi** (E/CN.4/1996/35/Add.1, para. 484). The Government informed that on 13 April 1994 a doctor was taken to examine him. The police recorded that he hanged himself in his cell. A judicial enquiry confirmed that death had occurred in the lock-up due to suicide. After investigations, the Crime Branch, Sukkar closed the case in 1998.

1263. **Zahid Ali Khan** (ibid, para. 487). The Government informed that on 22 June 1994 he was arrested in an injured condition, and was referred to the Jinnah Post-Graduate Medical Centre where he died. Before his death Zahid Ali Khan disclosed that he was kidnapped by two unknown persons from his house, who tortured him and threw him in the bushes. An investigation into police negligence in handling Zahid Ali Khan in custody was registered. After investigations the police officials were not found at fault and case was disposed of.

1264. **Kamil Salongo** (ibid, para. 491). The Government informed that the police officials at the Kandiaro Police Station, District Naushahro Feroze, reported that the allegations of Kamil Solangi are false and baseless, and no such incident was recorded.

1265. **Aftab Ali Beg** (ibid, 492). The Government informed that the allegations are false and baseless. No such incident occurred and there is no report in the record of the Liaquatabad Police Station.

1266. **Jamil Ahmed**, **Abdul Razzaq**, **Mamoon Rashid**, and **Mohammad Shahid** (ibid, para. 493). The Government informed that after verification the allegations are not correct.

1267. **Mohammed Sallem Jafri** and **Nadeem Ahmed** (ibid, para. 494). The Government informed that the allegations are not correct as police officers of the North Nazimabad Police Station never arrested them.

1268. **Kamran Qureshi** (ibid, para. 495). The Government informed that the allegations are false. He died as a result of bullet wounds sustained in an armed confrontation between the police and the terrorists. The Government constituted a judicial commission to probe into the encounter.

1269. **Niaz Bibi** (E/CN.4/1997/7/Add.1, para. 355). The Government informed that she was brought to the Civil Hospital in an injured state. However before the Assistant sub-

inspector could record a statement, she had left the hospital. Efforts to locate her have failed, and therefore the matter is closed.

1270. **Tariq Hussain Rizvi** (ibid, para. 359). The Government informed that he was arrested on 16 August 1995, and during the investigation he was sent to the Central Jail on remand. He died there 1 September1995. A case was registered against an officer of the Jamshed Quarter Police Station, who was acquitted by the court on 23 June 1996.

1271. **Feroze Uddin** (ibid, para. 361). The Government informed that after verification, the allegations are not correct. On 20 March1995, he accompanied policemen undertaking an investigation, when the party came under fire. Feroze Uddin sustained bullet wounds and died. During investigations into the shooting one person was arrested and charged. The Government constituted a judicial commission to probe into the encounter.

1272. **Sayeed Hassan** (ibid, para. 362). The Government informed that after verification, the allegations are false. He was not arrested by the Buffer Zone Police Station on 12 December 1995.

1273. **Shahid Dehalvi** (ibid, para. 363). The Government informed that following enquiries, the allegations are false and concocted.

1274. **Salim** (ibid, para. 368). The Government informed that the allegations are false.

1275. **Rashid Ameen** (ibid, para. 369). The Government informed that the allegations are false. He was not arrested, and no complaint was ever filed with the police.

1276. **Abdus Saboor** (ibid, para. 370). The Government informed that the allegations are false. He was not arrested, and no complaint was ever filed with the police.

1277. **Nasir Bande Ali** (ibid, para. 371). The Government informed that the allegations are not correct. At the time of his arrest he was injured and was immediately taken to Abassi Shaheed Hospital. He died while receiving treatment, and the enquiry and medical report corroborated the cause of death as contained in the First Information Report.

1278. **Mohammad Farooq** (E/CN.4/1998/38/Add.1, para. 293). The Government informed that he died in an armed confrontation with police. He was taken to Abbasi Hosptial for treatment but died en route. The Government constituted a judicial commission to probe into the encounter.

1279. **Fasih Ahmed** (E/CN.4/1999/61, para. 556). The Government informed that following his death in police custody, a case was registered against police officers of the Crime Investigation Agency Saddar, Karachi. The case was later disposed of due to a mistake of fact in Fasih Ahmed's death.

1280. **Jamil Ahmed** (E/CN.4/2000/9, para. 832). The Government informed following his death in custody in the Central Jail, a summary order of 10 October 2001 from the Judicial Magistrate Central directed that all the accused were acquitted.

1281. **Arman Danish** (ibid, para. 833). The Government informed that he was arrested by officers on 14 January 1999 in relation to weapons possession charges. On 16 January, Arman Danish complained of illness, saying that he suffered from pneumonia and asthma, and he was taken to a private clinic for treatment. On 18 January he complained again and he was taken to Abbasi Shaheed Hospital. He was released on bail due to his illness on 18 January and was admitted to the Ziauddin Hospital. On 28 January, his family informed the North Nazimabad Police Station that he died during treatment. The death certificate indicated that death was a result of cardio-respiratory failure. The death was neither due to torture nor maltreatment during police interrogation. They tried their best to save his life. A judicial enquiry was ordered, and a petition was submitted in the High Court of Sindh by the parents, however the court disposed of it on 21 April 1999.

1282. **Shoaib Bukhari** (ibid, para. 834). The Government informed that the police officer was arrested, but later acquitted by summary order on 28 July 2001.

1283. **Rizwan Qureshi** and **Saeed Qureshi** (ibid, para. 835). The Government informed that they were never arrested.

Papua New Guinea

1284. By letter dated 11 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Ekar Keapu**, a reporter for the newspaper *The National*. On 28 November 2003 at 10.30 a.m. he was covering a confrontation between the police and a group of vendors outside the Gordon Market in Port Moresby. Ekar Keapu was confronted by a policeman who ordered him not to take any photographs and later smashed the camera on the ground. Another policeman approached from behind and punched him on the side of the face. A third policeman threatened him with a steel rod.

Paraguay

1285. Por carta de fecha 5 de agosto de 2004, el Relator Especial notificó al Gobierno que recibió información según la cual más de 120 familias campesinas del Asentamiento de Tembiapora pertenecientes a la Organización Nacional Campesina (ONAC), afiliada a la Central Nacional de Trabajadores (CNT), habrían sido violentamente desalojadas por aproximadamente 80 efectivos de la Policía Nacional del Asentamiento Tembiapora el 2 de octubre de 2003. Los agentes de policía habrían procedido al desalojo armados con metralletas, revólveres y pistolas de distintos calibres y sin exhibir ninguna orden judicial, aunque habrían actuado por Orden del Agente Fiscal de Hernandarias. Habrían empezado a quemar ranchos y, ante el supuesto pedido de diálogo y explicación sobre el procedimiento, habrían abierto fuego contra el grupo de campesinos. Un centenar de ellos habrían sido golpeados. **Reinaldo David Espinola**, 16 años, **Jorgelina Rolón**, 36 años, **Elva González**, 47 años, **Félix Benítez**, 39 años, y **Felipe Ortiz**, 44 años, habrían resultado heridos de gravedad por impacto de bala y habrían sido internados en el Centro de Salud de Hernandarias. Los cinco heridos habrían sido imputados por el Fiscal y se habría emitido una orden de captura en su contra. Otro campesino, **Miguel Peralta**, habría fallecido tras recibir impactos de bala supuestamente disparados por efectivos policiales. Ese mismo día, la policía habría procedido a una segunda incursión en el asentamiento y habría detenido a 26 campesinos que habrían sido posteriormente puestos en libertad. El desalojo habría continuado el 3 de octubre de

2003, supuestamente con acciones violentas de quema de ranchos y persecución de campesinos. Se alega que la mayoría de los campesinos, ante las acciones de la Policía, ya había abandonado pacíficamente el asentamiento y se habría instalado en carpas improvisadas en la calle. Sin embargo, habrían sido desalojados de allí con un uso excesivo de la fuerza.

1286. Por carta de fecha 23 de noviembre de 2004 el Gobierno informó en relación con el desalojo violento por parte de fuerzas policiales del que fueron objeto 120 familias campesinas en el asiento denominado "Tembiaporá", apoyándose en la información facilitada por la Fiscalía Penal del Ministerio Público de la ciudad de Hernandarias. Reconoció el enfrentamiento acontecido entre los denominados "campesinos sin tierras" y las fuerzas policiales y facilitó la identidad de la víctima mortal y la del resto de heridos, junto con el diagnóstico médico correspondiente. En lo que respecta a la investigación llevada a cabo por la Unidad Fiscal N.° 2 del Ministerio Público sobre Sr. Miguel Peralta, que falleció en dicho enfrentamiento, aún no habría sido terminada porque faltarían diligencias procesales para poder proceder a su archivo. En cualquier caso, el Gobierno puntualizó que de acuerdo con lo acontecido cabe alegar defensa propia en la actuación policial y por lo tanto la causa investigada se podría investigar como tentativa de homicidio. Aún no habría sido determinado ningún responsable y la familia no habría percibido compensación alguna. En relación con los heridos el Gobierno aclaró que en la causa penal iniciada de oficio por la Fiscalía de la ciudad de Hernandarias no se investigan hechos constitutivos de delito de tortura, sino de atentado contra la vida y la integridad física. En el marco del proceso iniciado aún no habrían finalizado las correspondientes diligencias investigativas.

Peru

1287. Por carta de fecha 10 de mayo de 2004 el Relator Especial, juntamente con el Relator Especial sobre la promoción del Derecho a la Libertad de Opinión y Expresión, 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 según la cual **cerca de 150 niños y adolescentes** que viven o trabajan en la calle en Lima, así como algunos adultos que los acompañaban, habrían sido víctimas de un uso excesivo de la fuerza por parte de la policía el 20 de noviembre de 2003, durante la represión de una manifestación convocada por asociaciones comprometidas con los derechos de los niños que viven o trabajan en la calle: el Movimiento Nacional de Niños y Adolescentes Trabajadores Organizados del Perú (MNNATSOP), el Movimiento de Niños y Adolescentes Trabajadores Hijos de Obreros Cristianos (MANTHOC), el Instituto de Formación para Educadores de Jóvenes Adolescentes y Niños Trabajadores de América Latina y el Caribe (IFEJANT) y Generación. La manifestación se habría organizado para conmemorar el aniversario de la Convención sobre los Derechos del Niño y para pedir pacíficamente una mejor protección de los derechos del Niño. De acuerdo con la información recibida, la manifestación se desarrollaba pacíficamente hasta que la policía intervino para disolverla a la fuerza en la Plaza Mayor. Los agentes de policía habrían utilizado gases lacrimógenos y golpeado con porras a los manifestantes, a quines también habrían dado patadas. Bebés que se encontraban en los brazos de sus madres también habrían sido golpeados. Algunas personas habrían perdido la conciencia y otras habrían sufrido contusiones. A modo de justificación de su actuación, la policía habría alegado que la manifestación era ilegal por no respetar el decreto de la Alcaldía mediante el cual se prohibiría toda manifestación pública en el centro de Lima. Se alega que para no infringir este

decreto, las organizaciones de niños trabajadores habrían adelantado una protesta no violenta con pequeños grupos que ingresaban a la plaza por turnos, exigiendo el respeto a los niños y el reconocimiento y plena ciudadanía de la niñez como un sujeto de derecho, como actores protagonistas de la sociedad. Se alega igualmente que 13 manifestantes habrían sido detenidos por las fuerzas policiales pertenecientes a la Unidad de Servicios de Control de Disturbios de la Policía. Entre ellas, **Enrique Jaramillo**, coordinador de Generación, habría sido golpeado e insultado cuando se encontraba bajo custodia policial. Tres menores, una joven de 14 años de edad y dos varones de 10 y 12 años, todos ellos niños de la calle, habrían sido trasladados a un centro de detención preventiva y liberados el 22 de noviembre de 2003.

1288. Por carta de fecha 8 de julio de 2004 el Gobierno remitió información sobre lo sucedido en el transcurso de dicha manifestación así como de los delitos imputados a los menores, por los que se formalizó denuncia penal con fecha 13 de febrero de 2004. Respecto a un posible abuso de autoridad ejercido a través de un uso excesivo de la fuerza policial, el Gobierno negó tal extremo y aseguró que en su actuación, la Policía Nacional del Perú empleó los medios que la ley autoriza y no se excedió en el cumplimiento de sus obligaciones.

1289. Por carta de fecha 27 de mayo de 2004, el Relator Especial, juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, notificó al Gobierno que recibió información según la cual **Renato Fernández**, camarógrafo, y **Andy Ortiz**, reportero, habrían sido agredidos por un efectivo de la Policía Nacional el 24 de septiembre de 2003 en la ciudad de La Oroya, provincia de Yauli, región de Junín. Renato Fernández habría sido golpeado por una agente que lo habría dejado tendido en el suelo. Los periodistas habrían interpuesto una denuncia ante las autoridades policiales de la región y el jefe de la VIII Región Policial se habría comprometido a investigar y sancionar al responsable del incidente. Los hechos habrían ocurrido cuando los dos periodistas cubrían una manifestación de protesta contra el despido de 354 trabajadores de una empresa minera. Esta manifestación se habría realizado en el marco de un paro provincial de 48 horas convocado por la Municipalidad de Yauli y diversas organizaciones civiles. Los manifestantes habrían bloqueado la carretera central, interrumpiendo el tráfico durante varias horas. En un intento de despejar la carretera, la policía habría intervenido con el uso de bombas lacrimógenas, lo que habría provocado un enfrentamiento con los manifestantes. Algunos de ellos habrían sido golpeados por los agentes y otros habrían sido detenidos.

1290. Por carta de fecha 14 de octubre de 2004 el Gobierno informó de que no había sido interpuesta denuncia alguna contra de la Policía Nacional de Yauli-la Oroya, por los hechos acontecidos en el desarrollo de la manifestación que tuvo lugar en fecha 24 de septiembre de 2003.

Llamamientos urgentes

1291. El 7 de septiembre de 2004, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre las formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia en relación con **Alfonso Adrián Poma Guillermo**, de 29 años, **Alejandrina Poma Guillermo**, de 32 años, **Maribel Gutiérrez Ceballos**, de 27 años, **Quintín Nicolás Villegas Mamani**, de 41 años, **Leyver Adrián Gutiérrez Mamani**, de 26 años, **Edwin Hualpa Ccallo**, de 21 años, **César Perca Condori**, de 35 años, **Nélida Vicenta Gutiérrez Mamani**, de 30 años, **Esperanza Poma**

Guillermo, de 31 años, **Victoria Bonifacia Huisa Mamani**, de 41 años, **Rosendo Luciano Poma Guillermo**, de 40 años, **Virgilio Flóres Flóres**, de 27 años, y **un centenar de campesinos** más que habrían tomado posesión pacífica de un área de terreno erosionado ubicado en el sector de Munipata del Distrito de Sama Las Yaras, en la Provincia de Tacna. Según las informaciones recibidas, los agricultores estaban amparados por el reconocimiento de su posesión otorgado en la resolución 198-2004-MP-FEPD-TACNA de la Fiscalía de prevención del delito, en donde se exhortaba al Ejército al respeto a los derechos humanos y a los agricultores a respetar el debido proceso para poder ejercer su derecho. En este contexto y para evitar posibles problemas con el ejército, los agricultores se habrían ubicado a más de cinco kilómetros de donde se encontraban acantonados los militares. Sin embargo se alega que tras dos incursiones violentas por parte de los militares, el 18 y 20 de agosto de 2004, los agricultores habían solicitado al Prefecto que les otorgara garantías. El 29 de agosto de 2004 por la noche, numerosos miembros del ejército habrían rodeado el campamento que los campesinos había instalado en Munipata en Sama Las Yaras. Los campesinos, mujeres, niños y ancianos, habrían sido atacados por los soldados con piedras, palos y disparos al aire. Alfonso Adrián Poma Guillermo habría recibido dos pedradas en la cara lanzadas por un capitán. El ataque habría sido acompañado con insultos que hacían referencia al origen étnico de los agricultores. Seguidamente habrían sido obligados a caminar cerca de siete kilómetros. Durante la marcha los campesinos habrían sido nuevamente golpeados con palos. Finalmente, habrían sido abandonados en la carretera, sin ningún tipo de abrigo. A la mañana siguiente, la Policía Nacional del Perú (PNP) ubicada en la localidad de Sama se habría negado a recibir una denuncia sobre los hechos presentada por los campesinos, y les indicó que tenían que dirigirse a la Fiscalía de Tacna. Un médico forense habría hecho un reconocimiento de 12 de los campesinos heridos. Alfonso Adrián Poma Guillermo habría presentado desfiguración de rostro con dos cortes en la cara, cada uno de los cuales habría requerido 15 puntos de sutura; una brecha en la cabeza, suturada con 13 puntos, fractura de tobillo, y hematomas en las piernas y en los brazos. Alejandrina Poma Guillermo habría presentado un corte en el pómulo izquierdo con sutura de cinco puntos y hematomas en la cabeza. Maribel Gutiérrez Ceballos habría presentado hematomas en la espalda, cabeza, y extremidades. Quintín Nicolás Villegas Mamani habría presentado heridas por aplastamiento de los dedos de la mano derecha y hematomas en todo el cuerpo. Leyver Adrián Gutiérrez Madani, Edwin Hualpa Ccallo, César Perca Condori, Nélida Vicenta Gutiérrez Madani, Esperanza Poma Guillermo, Victoria Bonifacia Huisa Madani, Rosendo Luciano Poma Guillermo y Virgilio Flóres Flóres habrían presentado cortes y hematomas en diferentes partes del cuerpo.

1292. El 7 de septiembre de 2004, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial sobre la independencia de magistrados y abogados, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Representante Especial del Secretario General para los defensores de los derechos humanos con **Luis Alberto Ramírez Hinostroza**, víctima de tortura durante la dictadura militar y ahora uno de los testigos principales ante la Comisión de la Verdad y Reconciliación del Perú y en el proceso judicial contra un general retirado acusado de la desaparición forzada de nueve personas en 1991. De acuerdo con la información recibida, Luis Alberto Ramírez Hinostroza habría recibido amenazas de muerte y ataques contra su persona en varias ocasiones durante los últimos meses. El 13 de marzo de 2004, cuatro individuos habrían disparado contra él llamándole “bocón” mientras le perseguían. El 6 de mayo habría recibido una carta con amenazas junto con dos fotografías de su hija y de su esposa. En julio del mismo año, habría

recibido otras amenazas de muerte en su casa. En otra ocasión, cuando visitó el lugar donde habría sido torturado años atrás, unos soldados lo habrían fotografiado y habrían amenazado con detenerle. A finales de agosto de 2004 Luís Alberto Ramírez habría notado que alguien le estaba siguiendo, y se habría dirigido a la procuradoría de Huancayo. Sin embargo, una vez allí y tras haber solicitado protección policial, le habrían informado de que el funcionario solicitado no se encontraba, por lo que habría tenido que irse sin protección policial. Dos días más tarde, el 30 de agosto, un hombre y una mujer le habrían disparado desde un vehículo negro cerca de su casa, en El Tambo, Huancayo. Luis Alberto Ramírez Hinostroza habría resultado herido en el estómago y habría sido conducido al Hospital El Carmen, donde habría sido operado. El 2 de agosto de 2004, la Comisión Interamericana de Derechos Humanos había pedido al Gobierno peruano que tomara las medidas necesarias para garantizar su seguridad. Antes del último ataque, Luis Alberto Ramírez Hinostroza habría recibido una carta oficial en la que se le indicaba que se le otorgaban garantías personales, pero no se le habría proporcionado asistencia física. Actualmente, dos agentes de policía estarían encargados de su seguridad en el hospital. Sin embargo las autoridades todavía no le habrían garantizado la asistencia de guardaespaldas para después.

1293. Por carta de fecha 17 de septiembre de 2004 el Gobierno informó de que en fecha 30 de agosto de 2004, actuó a instancia de la Comisión Interamericana de Derechos Humanos e informó de las medidas adoptadas a fin de garantizar la vida e integridad física de la víctima. Cabe señalar que antes del atentado, concretamente en el periodo comprendido entre las fechas 4 y 30 de agosto de 2004, la Prefectura Regional de Junin resolvió en base a una petición realizada por el Cuarto Juzgado Penal de Huancayo, otorgar garantías personales a favor del Sr. Luis Alberto Ramírez y familia, en contra de Luis Pérez Documet, por haber sido amenazado en su integridad familiar y personal. La Comisión Nacional de Derechos Humanos constató no haber recibido información relacionada con las medidas adoptadas con este fin. El Gobierno aclaró no obstante que fue dispuesto el servicio de seguridad física a la víctima durante el tiempo que estuvo convaleciente en el Hospital El Carmen Hyo a consecuencia de las heridas sufridas en el atentado.

Seguimiento de comunicaciones transmitidas previamente

1294. Por cartas fechas 12 y 18 de febrero de 2004 el Gobierno respondió en relación con los siguientes casos individuales:

1295. **Lucas Huamán Cruz y Sósimo Lunasco Taype** (E/CN.4/2000/9, párr. 843). El Gobierno declaró que el Fiscal Superior Decano del Distrito Judicial de Ayacucho, había indicado con fecha 23 de enero de 2004 que los cuatro Fiscales Provinciales Penales de la Sede de Huamanga, así como el Fiscal Provincial de la Provincia de Vilcashuman y la Fiscal Especializada de Derechos Humanos informaron no conocer las investigaciones realizadas a favor de los agraviados. Sin embargo, de acuerdo con los datos aportados por la Dirección de Derechos Humanos del Ministerio de Asuntos Exteriores se tiene constancia de que funcionarios de la Defensoría del Pueblo y el Fiscal Provincial de San Miguel iniciaron las investigaciones sobre la muerte del Sr. Lucas Huamán y determinaron la responsabilidad del autor de los hechos, miembro de la Policía Nacional del Perú y cuya identidad es conocida por el Relator. Éste fue procesado judicialmente, internado en el Penal de Máxima Seguridad de Yanamilla-Ayacucho con fecha 14 de enero de 1999 y finalmente absuelto en fecha 5 de

octubre de 1999 por orden del Presidente de la Sala Penal de la Corte Superior de Justicia de Ayacucho.

1296. **Carlos Orellana Mallqui** (ibíd, párr. 844). El Gobierno señaló que se habían adoptado medidas disciplinarias contra un miembro de la Policía cuya identidad es conocida por el Relator, por haber incurrido en la comisión de faltas graves contra la disciplina y servicio, y presunto autor de los delitos de negligencia, abuso de autoridad y lesiones graves seguidas de muerte en agravio del ciudadano mencionado. El Gobierno hizo referencia asimismo al informe elaborado por la Central de Distribución General de la Corte Superior de Justicia de Ancash en el que se señalaba el único proceso penal instaurado por delito de lesiones graves a favor del agraviado, siendo el Juez del Segundo Penal de Huaraz quien había dispuesto abrir instrucción. El encausado estuvo internado en el Establecimiento Penal de Huaraz desde el 16 de diciembre de 1998 procesado por el delito de lesiones graves seguidas de muerte y quedó en libertad el 22 de noviembre de 1999.

1297. **Armando Alex Verdón Huamancóndor** y su amigo **Max** (ibíd, párr. 847). El Gobierno señaló que la Tercera Fiscalía Provincial Mixta de Tacna había informado de que la denuncia interpuesta por el delito de tortura con lesiones se investigó en la Comisaría Central, remitiendo el atestado policial por delitos de denuncia falsa y contra la Administración Pública en contra del ciudadano mencionado y a favor de los dos agraviados, ambos miembros de la Policía Nacional del Perú. La Fiscalía Provincial Mixta de Delitos Tributario y Aduanero que en fecha 21 de septiembre de 1999 se encontraba en activo, dispuso el archivo definitivo de la causa.

1298. **José Antonio Rojo Sánchez** (ibíd, párr. 850), **Ezequiel Agurto Nole** (párr. 851) y **Christian Preciado** (párr. 852). El Gobierno declaró que en fecha 27 de enero de 2004 el Secretario General del Consejo Supremo de Justicia Militar facilitó información sobre el estado procesal de las causas seguidas en agravio de los ciudadanos mencionados. Sobre los Sres. Rojo Sánchez y Preciado, indicó que no se habían registrado antecedentes penales y/o judiciales. Respecto al Sr. Agurto Nole, aclaró que la causa seguida ante el Consejo de Guerra Permanente había sido archivada con fecha 18 de octubre de 2002.

1299. **Edgard Rosas Platero** y **Edwin Lupaca Lupaca** (ibíd, párr. 854). El Gobierno informó de que la Fiscalía Provincial Mixta de Candarave instruyó la causa por delito contra la vida, el cuerpo y la salud en modalidad de homicidio, en agravio de Edwin Lupaca Lupaca y en contra del presunto autor, cuya identidad es conocida por el Relator Especial. Dicha instrucción fue objeto de sentencia firme en fecha 5 de diciembre de 2003.

1300. **Julio César Pinedo Vásquez** (ibíd, párr. 856). El Gobierno señaló que tras haber solicitado informe a las Fiscalías Provinciales Penales de Trujillo sobre el caso, pudo constatar que no existía registro alguno de denuncia en favor del agraviado.

1301. **Pablo Waldir Cerrón González** (E/CN.4/2002/76/Add.1, párr. 1171). El Gobierno informó de que se había formalizado denuncia penal con fecha 15 de septiembre de 1999 contra el presunto autor de los hechos (cuya identidad es conocida por el Relator Especial) por el delito contra la vida, el cuerpo y la salud—lesiones menores graves y por el delito contra la libertad—, violación del domicilio, en agravio del Sr. Cerrón Gonzáles. La responsabilidad del primero había sido previamente determinada por el Parte formulado con fecha 31 de 1998

por la Inspectora de la SR-PNP-Huamachuco por ser autor de lesiones leves y del delito contra el deber y dignidad de la función. La formalización de dicha denuncia provenía de la Fiscalía Provincial Mixta de Sánchez Carrión y el caso se encontraba definitivamente archivado.

1302. **Luis Beltrán Castillo** (ibíd, párr. 1172). El Gobierno informó de que el Fiscal Superior Decano del Distrito Judicial de Ayacucho, había indicado con fecha 23 de enero de 2004 que los cuatro Fiscales Provinciales Penales de la Sede de Huamanga, así como el Fiscal Provincial de la Provincia de Vilcashuman y la Fiscal Especializada de Derechos Humanos afirmaron no conocer las investigaciones realizadas a favor del agraviado. Sin embargo de acuerdo a los datos aportados por la Dirección de Derechos Humanos del Ministerio de Asuntos Exteriores se tiene constancia de que el agraviado recurrió a la Fiscalía y Juzgado de la Provincia de Vilcashuamán para denunciar a los efectivos policiales por el delito contra la humanidad y contra la administración pública, al haber sido objeto maltrato físico y no haberse adoptado el procedimiento policial reglamentario. El Fiscal Superior de la Segunda Fiscalía de Ayacucho encontró responsabilidad en los efectivos policiales por los delitos de tortura y abuso de autoridad pero éstos fueron finalmente absueltos al término del juicio oral de fecha 6 de diciembre de 2000.

1303. **Juan Iparraguirre Landauro** (ibíd, párr. 1173). El Gobierno informó de que no se había encontrado responsabilidad administrativa y/o penal por parte del personal policial de la Comisaría Bagua Grande. Los hechos no pudieron ser probados y no hubo denuncia alguna por parte del agraviado por presunto abuso de autoridad o tortura. De acuerdo al dictamen legal emitido en fecha 19 de marzo de 2002, el caso debía ser puesto en conocimiento del Presidente de la Corte Suprema y del Presidente de la Comisión y Consejo Nacional de Derechos Humanos.

1304. **Pedro Tinta Vera y Juan Domingo Cerrón Núñez** (ibíd, párr. 1175). El Gobierno señaló que con fecha 16 de abril de 1999 fue interpuesta una denuncia en favor del agraviado Pedro Tinta contra el personal de la División Anti-Secuestros (DIVISE) por presunto delito de abuso de autoridad. Este mismo hecho fue denunciado ante la Octava Fiscalía de Provincial Penal de Lima y la Defensoría del Pueblo. El Parte Administrativo Disciplinario correspondiente determinó la responsabilidad de dos miembros de la Policía que incurrieron en faltas contra la disciplina-obediencia y negligencia, siendo sancionados con cuatro horas y cuatro días de arresto simple respectivamente. Con fecha 5 de octubre de 1999 se formalizó denuncia por delito de abuso de autoridad contra la DIVISE y el 13° Juzgado Penal que aperturó el proceso penal por la presunta comisión del delito de tortura. Éste dispuso en un principio la detención de los encausados y finalmente optó por la comparecencia restringida por la Primera Sala de Procesos Ordinarios de Lima.

1305. **Walter Munárriz Escobar** (ibíd, párr. 1176). El Gobierno detalló el resultado de las causas penales y administrativas seguidas contra miembros de la Policía Nacional del Perú, por su participación en los hechos que constituyeron un delito contra la humanidad en agravio del ciudadano mencionado, a quien hicieron desaparecer de manera forzada tras haber sido objeto de tortura y malos tratos en dependencias policiales. El Gobierno facilitó una relación de las personas encausadas por vía administrativa-disciplinaria primero, al haber incurrido en faltas por negligencia, abandono de servicio, contra la obediencia y el ejercicio de mando y contra la obediencia y el deber profesional. Éste fue el resultado de las

investigaciones llevadas a cabo por parte de la Inspectoría de la SRPNP-Huancavelica y que precedieron a la apertura de la causa penal en el Juzgado Mixto local. Éste dispuso la detención de algunos agentes policiales que ya había sido previamente sancionados por vía administrativa y que fueron condenados por la comisión del delito de desaparición forzada en agravio del Sr. Walter Munárriz Escobar. En la actualidad todos los inculpados se encontrarían en prisión a excepción de uno de ellos, cuya orden de detención fue cambiada por la de comparecencia con medidas restrictivas y el pago de una caución económica.

1306. **Catalino Daga Ruiz y Santos Daga Ruiz** (ibíd, párr. 1178). El Gobierno informó de que se había formalizado denuncia penal en fecha 3 de noviembre de 1999 contra miembros de la Policía Nacional del Perú, cuya identidad es conocida por el Relator Especial, por el delito de tortura en agravio de los ciudadanos mencionados. La formalización de dicha denuncia provenía de la Fiscalía Provincial Mixta de Sánchez Carrión, que finalmente dictó resolución de archivamiento el 1 de junio de 2001 al no haberse acreditado el delito.

1307. **Luis Alberto Taipe Huamaní** (ibíd, párr. 1179), **Alejandro Ticlavilca Huere** (párr.1183) y **Sitial Reyes Salgado** (párr.1183). El Gobierno hizo saber que no habían sido ubicados en ninguno de los Juzgados Penales en los que se efectuó la búsqueda, los procesos relativos a los presuntos delitos de tortura cometidos en agravio de los ciudadanos mencionados.

1308. **Aldo Mercedes Silvestre Ramírez** (ibíd, párr. 1188). El Gobierno señaló que la investigación seguida por el delito de tortura se encontraba a disposición de la Cuarta Sala Penal de La Libertad del Juzgado Mixto de Virú en fecha 13 de agosto de 2003.

1309. **Bernardino Mamani Mamani** (ibíd, párr. 1189). El Gobierno confirmó que existía una denuncia interpuesta por este ciudadano, con fecha 10 de julio de 2000 y en contra de un miembro de la Policía Nacional del Perú por presunto maltrato físico en su propio agravio y en el de su hijo menor de edad. En la Comisaría de la Policía Nacional del Perú en Ilabaya se formuló el parte administrativo disciplinario, cuyo instructor concluyó estableciendo responsabilidad en la comisión de los hechos denunciados, por parte de dos miembros de la Policía Nacional del Perú que fueron sancionados con diez días de arresto de rigor y 15 días de arresto simple respectivamente.

1310. **Juan Carlos Garay Pereyra** (ibíd, párr. 1190). El Gobierno aclaró que la Segunda Fiscalía Mixta Provincial de Tacna había dispuesto el archivo definitivo de la denuncia penal por el presunto delito de tortura formulada en contra de un ciudadano, cuya identidad es conocida por el Relator Especial.

1311. **Jorge Jerí Juscamaita** (ibíd, párra. 1195), **Carlos López Flores** (párr.1200) y **Esperanza Mendoza Auqui** (párr. 1196). El Gobierno declaró que el Fiscal Superior Decano del Distrito Judicial de Ayacucho, había indicado con fecha 23 de enero de 2004 que los cuatro Fiscales Provinciales Penales de la Sede de Huamanga, así como el Fiscal Provincial de la Provincia de Vilcashuman y la Fiscal Especializada de Derechos Humanos informaron no conocer las investigaciones realizadas a favor del agraviado.

1312. **Pastor Pilco Cotrado** (ibíd, párr. 1198). El Gobierno confirmó que de acuerdo con el resultado de las investigaciones efectuadas por el Director de Investigaciones Especiales de

la Inspectoría General de la Policía Nacional del Perú se había establecido responsabilidad disciplinaria en el personal encargado del Comando SR-PNP-Tacna. Fue demostrada la participación directa de los encausados en las agresiones físicas cometidas en contra del ciudadano mencionado. A raíz de estos hechos se pudieron determinar las faltas graves contra la obediencia, negligencia y abuso de autoridad en que incurrieron los miembros de la PNP. El Gobierno hizo mención a la posible comisión de los delitos de abuso de autoridad, negligencia, desobediencia y omisión del deber de socorro aunque no facilitó información alguna sobre las diligencias practicadas en vía penal.

1313. **Alejandro Damián Trujillo Llontrop** (ibíd, párr. 1206). El Gobierno señaló que su desaparición había sido denunciada por el padre del agraviado, el Sr. Alejandro Damián Trujillo Tapia, y confirmó la aparición de su cadáver en fecha 2 de marzo de 2000. La 11.ª Fiscalía Pebal-Cono Norte tenía a su cargo la investigación y se encontraban involucrados en la causa por su presunta participación en los hechos, personal de la Policía Nacional del Perú de la DIVOES-Norte. El Gobierno precisó en cualquier caso, que en el parte elaborado por el Jefe de la Policía Metropolitana-Norte 1, no había sido posible determinar la responsabilidad del personal policial de la DIVOES.

1314. **Nelson Díaz Marcos** (ibíd, párr. 1207). El Gobierno informó de las diligencias practicadas tanto en vía penal como administrativa. En este sentido hizo saber que miembros de la Policía Nacional del Perú fueron encausados y su responsabilidad administrativa determinada, por haber incurrido en faltas graves contra la obediencia, negligencia, abuso de autoridad y contra el deber profesional en agravio del ciudadano mencionado. Respecto al proceso penal, la Segunda Fiscalía Provincial Mixta de Tacna había formulado acusación contra miembros de la Policía Nacional del Perú (cuya identidad es conocida por el Relator Especial) por presunto delito de abuso de autoridad y omisión de la obligación de denunciar. Dicha Fiscalía solicitó que se impusiera a cada uno de los acusados una pena privativa de libertad por dos años así como el pago de una suma de dinero en concepto de indemnización a favor del damnificado y el Estado. El caso había sido archivado definitivamente.

1315. **José Luis Poma Payano** (ibíd, párr. 1208). El Gobierno señaló que de acuerdo a la información contenida en el informe remitido por la Fiscalía Superior Decana del Distrito Judicial de Lima, no había investigación alguna por delito de tortura y maltrato que hubiera ocurrido en los cuarteles del ejército peruano. Aportó datos en cualquier caso sobre el proceso de investigación seguido contra varios ciudadanos (cuya identidad es conocida por el Relator) por el delito contra la vida, el cuerpo y la salud en agravio del Sr. Poma Payano. Confirmó que se había interpuesto una denuncia con fecha 16 de noviembre de 2000 ante la 22.ª Fiscalía Provincial Penal de Lima por delito de tortura, que finalmente fue formalizada por delito de homicidio, lo cual dio lugar al archivo definitivo de la causa iniciada por el primero.

1316. Por carta de fecha 23 de junio de 2004 el Gobierno respondió en relación con los siguientes casos individuales:

1317. **Jenaro Lee Rivera San Roque** (E/CN.4/2002/76/Add.1, párr. 1209). El Gobierno informó que en base a la información remitida por el representante del Poder Judicial ante el Consejo Nacional de Derechos Humanos del Ministerio de Justicia, el Gobierno informó de que el único proceso penal abierto por esta causa estaba tramitándose en la Sala Mixta de la Corte de Huaura.

1318. **Ronald Enrique Peña García** (ibíd., párr. 1193). El Gobierno confirmó la existencia de una denuncia penal interpuesta por la Fiscalía Provincial de Talara-Piura contra los presuntos coautores del delito de tortura (cuya identidad es conocida por el Relator Especial), en agravio del ciudadano mencionado. Con fecha 6 de abril de 2004 la Presidencia de la sala Mixta de Sullana conoció de la causa y determinó fecha y hora para la vista de la misma. De manera previa, el Informe Final remitido por el Juzgado Penal de Talara, había acreditado la comisión del delito instruido así como la responsabilidad penal de los encausados.

1319. Por carta de fecha 14 de octubre de 2004 el Gobierno respondió en relación con los siguientes casos individuales:

1320. **Jhony Chang Flores, Christian Raffo** (E/CN.4/1999/61, párr. 562) y **Nancy Patruska del Campo Cáceres** (párr. 568). El Gobierno aclaró que de acuerdo a la información facilitada por la Jefatura de Investigación Criminal-Este, contenida en la carta del 14 de octubre de 2004, no existía registro de las personas mencionadas. Este hecho dio lugar a la omisión de la información solicitada. Según los datos aportados por el Poder Judicial en fecha 18 de febrero de 2004, se instruyó a diferentes fiscalías para que remitieran los informes relativos al caso.

1321. **Pedro Rafael Marino Núñez** (ibíd, párr. 562). El Gobierno declaró que había sido interpuesta una denuncia por el Sr. Pedro Rafael Marino por el delito contra la vida, el cuerpo y la salud cometido en su agravio presuntamente por responsables de la División de Investigación Criminal-Este. La causa penal abierta fue objeto de sentencia condenatoria con fecha 12 de agosto de 1999. El Gobierno aclaró que de acuerdo a la información facilitada por la Jefatura de Investigación Criminal-Este, contenida en la carta del 14 de octubre de 2004, no existía registro de la persona mencionada. Este hecho dio lugar a la omisión de la información solicitada.

1322. **Ricardo Solano Asto** (ibíd, párr. 563). El Gobierno aclaró que de acuerdo a la información facilitada por la Jefatura de Investigación Criminal-Este, no existía registro de las personas mencionadas. Por lo tanto había resultado imposible obtener la información correspondiente a los casos.

1323. **Saúl Robinson Tello Muñoz** (ibíd, párr. 564). El Gobierno informó de que se encontraba registrado en el Primer Juzgado Penal de Coronel Portillo del Distrito Judicial de Uyacali el proceso penal seguido contra un ciudadano, cuya identidad es conocida por el Relator Especial, por el delito de abuso de autoridad en agravio de la persona mencionada. Dicho proceso había sido objeto de sobreseimiento. El Gobierno aclaró que de acuerdo a la información facilitada por la Jefatura de Investigación Criminal-Este, contenida en la carta del 14 de octubre de 2004, no existía registro de la persona mencionada. Este hecho dio lugar a la omisión de la información solicitada.

1324. **Huberto Zevallos Matos** y **Luis Omar Cruz Fano** (E/CN.4/2000/9, párr. 846). El Gobierno informó de que través del informe elaborado por la División de Derechos Humanos de la Dirección del Estado Mayor General de la Policía Nacional del Perú, el Gobierno hizo

saber que en el Juzgado Mixto de Aucayacu no se había tramitado ningún proceso por el delito de tortura en agravio de los Sres. Zevallos Matos y Cruz Fano.

1325. **Javier Ángeles Salas**, **Jorge Ramón Ángeles Salas**, **Alejandro Trujillo Rosas** y **Pedro Miguel Pajuelo Rosas** (E/CN.4/2002/76/Add.1, párr.1186). El Gobierno declaró que en el informe elaborado por la Inspectoría de la Subregión Huanuco no se había determinado que el Jefe de Seguridad del EE.PP. Huanuco, se encontrara incurso en el delito de abuso de autoridad y lesiones en agravio de los ciudadanos mencionados. Tampoco se había establecido responsabilidad alguna para los otros siete policías que presuntamente participaron en los hechos.

1326. **Jesús Wilber Asto Abanato** (ibíd, párr. 1191) y **Roberto Carlos Gómez Arévalo** (ibíd, párr.1192). El Gobierno informó de que en el informe elaborado por la Jefatura de Seguridad Ciudadana – Centro, consta que en la Comisaría de Monserrat no existía registro alguno de denuncia por presunta violación de derechos humanos en agravio de los ciudadanos mencionados.

1327. **Sara Enedina Arrieta Azcárate** (ibíd, párr.1201). El Gobierno señaló que el informe elaborado por la División de Derechos Humanos de la Dirección del Estado Mayor General de la Policía Nacional del Perú, concluye que no se había registrado denuncia alguna por parte de la mencionada ciudadana por el presunto delito de tortura cometido en agravio de su hijo Frank Romero Arrieta.

Philippines

1328. By letter dated 5 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning :

1329. **Flory Balilid**, a 25 year-old farmer, of Barangay Sinapulan, Columbia, Sultan, Kudarat. On 12 February 2004 at 7am, Flory Balilid was riding his horse on the way to Sitio Malpikat from his house to haul corn when he saw about 100 heavily armed soldiers of the 66th Infantry Battalion, 6th Infantry Division. One of the soldiers approached him and ordered him to dismount. The soldiers insisted that he was a courier of the New People's Army (NPA). They covered Flory Balilid's face with a cloth and started beating him with armalite butts on his chest, underarm and punched his neck, shouting, "Ikaw ang isa kakumander nga NPA! (You are an NPA commander)". He was then told to remove his t-shirt and stand with both arms outstretched. One of the soldiers then pulled down Flory Balilid's briefs to his knees, and they mocked him. The cloth covering his face was removed and he saw that five were aiming their guns at him. He escaped towards Poblacion Barangay Sinapulan, and accompanied by his uncle, he reported the incident at the police station in Poblacion Colombio, Sultan Kudarat. This was followed by a medical examination.

1330. **J. R.**, 16 years old, **Jonathan Rom, Louie Rom,** and **Genson Rom**. On 13 February 2003, they were arrested by members of the 19th Infantry Battalion based in Brgy. They were handcuffed and accused of being rebels. During the interrogation J. R. was punched and beaten every time he denied being a member of the New People's Army (NPA). He was hit on the neck and left for dead in an isolated area. J. R. woke up after a few hours and manage to return to his house. He was taken to the hospital by his uncle. There the military arrived and

took him to the Burauen Municipal Jail, having charged him with multiple homicide. The three other persons were released after spending three days in military custody. J. R. was transferred to a detention cell for minors at the Leyte Sub Provincial Jail in July 2003.

1331. **Jose Cañedo Suplaag**, a 41 year-old farmer of Sitio Kalogtogan, Brgy. Pili, Danao City, and his son, **J. S.**, 17 years old. On 2 December 2003 Jose Cañedo Suplaag returned home from working on his farm to find a group of soldiers resting in his yard. They pointed their weapons towards him, ordered him to raise his hands in the air, and then he was tackled to the ground by another soldier. When J. S. tried to intervene, one of the soldiers kicked him twice in the stomach. Jose Cañedo Suplaag was handcuffed and brought to the Barangay hall in Pili. The soldiers claimed that subversive documents were found in his possession, and Jose Cañedo Suplaag was forced to hold some papers and be photographed. He was then taken to the headquarters of the 78th Infantry Battalion in Brgy. Damolog, Sogod, Cebu. He was accused of being a member of the New People's Army (NPA), and when he denied this the soldiers covered his head with a plastic bag full of crushed "siling labuyo" (pepper), a technique known as the "dry submarine". The soldiers punched him on the back using their elbows, and threatened to kill him if he did not confess. This ordeal lasted for about two days. He was forced to sign a document of which he did not understand as he was illiterate. On 4 December 2003 he was brought to the Danao City Jail and he was charged with the illegal possession of firearms at the Regional Trial Court, Branch 25.

1332. By letter dated 10 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1333. **Abdulla Ayub**, age 53. On 27 January 2003, in Damulog, Bukindnon, he was struck with an armalite butt and hit on the back by two members of the 8th Infantry Battalion, 4th Infantry Division of the Philippine Army (whose names are known to the Special Rapporteur). He was accused of being a member of the Moro Islamic Liberation Front (MILF).

1334. **Talib Macaangon**, age 24, and **Eddie Redoble**, both farmers. On 24 February 2003 they were detained by members of the 102nd Brigade in Barangay Sanito, Ipil, Zamboanga Sibugay. Talib Macaangon's feet were tied to a chair, his hands were tied behind his back, he was blindfolded with a malong garment, and his head was covered with cellophane. He was punched on the back for about thirty minutes until he fell on the floor, and water was poured into his nose. Eddie Redoble was punched and beaten several times. They were suspected of being members of MILF.

1335. **Bangcola Kamao**, a 38 year-old farmer, **S. K.**, age 17, and **Acmad Ampatuan**, a 33 year-old band saw worker. On 28 March 2003 in Barangay Lilod, Marawi City, they were suspected to be members of MILF and beaten by members of the 58th Infantry Battalion led by a First Lieutenant (whose name is known to the Special Rapporteur), based in Cadayunam, Marawi City. Bangcola Kamao was punched three times in his stomach until he was unconscious. He was later hit by an armalite butt in the stomach, and three times on the foot with an M-16's silencer.

1336. **T. U.**, **Ting Idar**, **To Akmad**, age 30, **J. B.**, and **Esmael Mamalangkas** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, 1325).

1337. **Saraudin**, age 24. On 28 May 2003 in Sitio Bacuring, Purok 1-A, Barangay Madaum, Tagum City, he was detained and beaten on suspicion of being a member of MILF by members of the 60th Infantry Battalion, Special Forces, Task Force Davao, and the 72nd Infantry Battalion. Saraudin was blindfolded, his head was wrapped in cellophane, he was kicked in the stomach, and electric shock was applied to the left side of his neck.

1338. **Hadji Omar Ramalan**, age 50, Poblacion Bacolod, Parang, Maguindanao. At 9am on 9 January 2004, he and his wife were arrested at a checkpoint by ten members of the 64th Infantry Battalion in Barangay Langkong, Matanog, on suspicion of involvement in a recent bombing. They were taken to the headquarters in Barangay Sarmiento, Matanog and later transferred to the 3rd Infantry Battalion headquarters in Bliss Nituan, Parang. Upon arrival at the headquarters, they were both blindfolded. Hadji Omar Ramalan was transferred to another vehicle and taken to an unknown place, and his wife was later released. During his detention from 9 to 12 January, he was placed in a solitary cell and stripped of his clothes. He was kicked, hit with a hard instrument, electric shock was applied to his body, his fingers were squeezed with bullets between them, and he was forced to drink alcohol and urine. He was threatened that he would be dumped into a canal and his penis would be fed to a dog. On 12 January he was turned over to the Bureau of Correction in Cotabato City by the military police of the 6th Infantry Division. On 14 January he was examined at the Cotabato City Regional Hospital, and the medical report indicated he suffered injuries on his nose, ears, upper back, wrists, knees and forehead.

1339. **James Francis Defiesta**, age 18, Sitio Tan-awon, Barangay Malinawon, Mawab, **Wilfredo Damalerio**, age 30, and **Evelyn Alicaba**, age 38, both from Barangay Mipangi, Nabunturan, in Compostela Valley Province, MindaNo. At around 9am on 27 June 2004, they were arrested by members of the 60th Infantry Battalion on suspicion of being members of the New Peoples Army. Wilfredo Damalerio's hands were tied with rope and he was hit three times in the stomach. James Francis Defiesta was punched repeatedly in the stomach and face, and hit twice with a butt of a gun on his neck, and once in his stomach. His hair was cut off before his hands were tied. At noon they were transferred to the Nabunturan Police Station, and on 29 June they were transferred to the BJMP District Jail, Montevista. They did not received adequate medical attention prior to nor after their transfer to the jail.

1340. By letter dated 11 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1341. **Senen Gambong**, age 50, Sitio Tambis, Barangay Baculin, and **Eduardo Nuñez**, age 38, Sitio Banyag, Barangay Batawan. On 8 June 2004, they were among eight persons arrested by by the 30th Special Forces led by an officer (whose name is known to the Special Rapporteur) in Sitio Lumbia, Barangay Batawan, Baganga, Davao Oriental. Those arrested were accused of membership in the New Peoples Army (NPA). They were brought to the 30th Special Forces headquarters at 3pm and detained until 10 June 2004. Five persons were released. **Inting Bantayan** was reportedly killed during the arrest. Senen Gambong and Eduardo Nuñez were beaten by the soldiers immediately after their arrest and during their detention, and forced to confess that they were NPA members. Senen Gambong was slapped, kicked in the right thigh, and punched in the face. Eduardo Nuñez sustained injuries to his stomach and had difficulty urinating. Relatives were denied access to the men when they visited the military camp on 9 June. At 1:30am on 10 June, the two men were turned over to

the Baganga police station. There Eduardo Nuñez was beaten by a police officer (whose name is known to the Special Rapporteur). They were released at 3:30pm on 10 June and taken to Davao City for medical treatment.

1342. By letter dated 7 December 2004, the Government informed that on 8 June 2004, elements of the 30th Special forces Company led by a First Lieutenant encountered 30 fully-armed members of the Communist Terrorist Movement (CTM)/ New People's Army (NPA) in Barangay Batawan, Bangaga, Davao Oriental. The encounter resulted in the death of Inting (Danilo) Bantayan, and the capture of Eduardo Nuñez and Senen (Cenin) Gambong. They were brought to the Bagaga police station for investigation in the killing of a police officer murdered by the NPA in April 1996. The killing and capture of the men arose out of a legitimate encounter between government troops and the insurgents. The alleged acts of torture are devoid of truth and are meant to discredit a legitimate encounter of government troops against the enemies of the State.

Urgent appeals

1343. On 10 August 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Alvin S. Valdez**, age 22, Kidapawan City, Mindanao. According to the allegations received, on 16 July 2004 at 1:45am, armed men wearing balaclavas forced open the door of his girlfriend's house, and searched for a gun, while the family was held at gunpoint. It is reported that one of the men was not wearing a balaclava, and was identified as the Chief of Police of Kidapawan. They arrested Alvin S. Valdez and took him away. The family filed a habeas corpus petition, but during the hearing the Chief of Police denied being present when he was taken away, or ordering his men to arrest him.

1344. By letter dated 7 December 2004, the Government informed that according to the investigation report of the police authorities, the Chief of Police of Kidapawan City Police Station has continued to deny the allegations and has produced affidavits by persons to support his alibi. Some witnesses to the incident attested that the Chief of Police was not among the perpetrators. In the meantime, he has been relieved of his responsibilities pending the investigation. The National Bureau of Investigation is coordinating with the police authorities concerned and with the Kidapawan City Prosecutor. Two criminal cases were filed against the Chief of Police, and seven lawsuits for violation of domcile and unlawful arrest. They are pending before the Kidapawan City Prosecutor's Office.

1345. On 3 September 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, **Mario Detroz**, age 41, **Joseph Gonzales**, age 23, **Ronaldo Comiso** residents of Sampaloc district, Manila. According to the allegations received, on 18 August 2004, they were reportedly arrested by men believed to be members of the Intelligence Service of the Armed Forces of the Philippines (ISAFP). As the men drove through Sampaloc at around 5pm, their car was blocked by a waiting vehicle. Around ten unidentified men surrounded the car, fired a warning shot and forced Joseph Gonzales to transfer to the other vehicle. Both vehicles were then driven off in a convoy of several other cars. A local district official took the licence number of the assailant's vehicle and recorded the incident in a logbook. Bystanders were reportedly informed that the incident was related to an operation against suspected bank robbers. No record of the arrest had been

made. However a police officer, while denying knowledge of an arrest, reportedly confirmed that he had been informed by ISAFP personnel that an 'operation' was underway in the area. The officer gave the name of an ISAFP Staff Sergeant reportedly involved in the operation, but continuing inquiries about the whereabouts of the three men have been unsuccessful.

1346. By letter dated 9 December 2004, the Government informed that the allegations are unfounded. The ISAFP neither abducted nor detained these persons. Information on the alleged incident was brought to the attention of ISAFP as early as 24 August 2004 through letters from the Karapatan human rights organization and Baya Muna representatives. The ISAFP, after verification of its records, informed them that there was no such staff sergeant on its staff and it had no operation on 18 August 2004 in the area in question. In good faith, ISAFP allowed representatives of the victims to inspect its premises, including detention cubicles, as well as interview inmates, and examine the visitors' and detainees' log books. Nevertheless the family representatives filed a petition for a writ of habeas corpus before the Court of Appeals against the Chief of ISAFP.

1347. On 30 November 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Danilo Mayo, Mary Ann Vibat, Ronnie Ferrer, Marichu Cataquiz, Paterno Atienza, Precy Balmes, Christopher Malabanan, Rufino Arante Tabares, Lijan Gunmay** and **Analiza Espiritu**, San Felipe, Cuenca, Batangas. According to the allegations received, on 6 November 2004 at around 6am, the ten above-mentioned persons were travelling by an orange service jeep from Barangay Sirang Lupa, Calamba City, Laguna, to Batangas via a RORO (Roll-On, Roll Off boat) at Abra de Ilog, Mindoro Occidental. That day residents of Barangay San Felipe reported that they witnessed the orange jeep blocked by a red Tamarraw jeep in the middle of the road. Two other vehicles were parked nearby, one was avocado-coloured and the other was a CRV-Revo. The Revo had a red plate with no numbers on it, but only the phrase "For Official Use Only". Tall men from the red jeep wearing hoods, white shirts, ammunition pouches, and holsters forced the ten occupants out of their vehicle and transferred them to the awaiting vehicles. Those who resisted were struck in the stomach, kicked, and had their arms twisted behind their backs. While this occurred the armed men pointed their rifles at the bystanders who were nearby or travelling on the road. The three vehicles left in the direction of Lipa, Batangas. At 10am, residents of Barangay Ibabao witnessed a black van followed by an orange service jeep parked in the middle of the road. The driver of the orange jeep abandoned it and left in the black van. The residents reported the abandoned vehicle to the police on 7 November and at 3pm it was towed to the Philippine National Police (PNP) station Barangay Ibabo, Cuenca, Batangas. On 9 November 2004, at the Fernando Airbase the official civilian representative of the airbase, stated that nine of the people had been charged with murder and illegal possession of firearms. They were reportedly transferred to Fort Bonifacio and are held incommunicado.

Poland

1348. By letter dated 15 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Grzegorz Hulewicz**, age 30. On 19 November 2002, he was arrested in Sopot and detained for 48 hours by the police of the Polish Central Bureau of Investigation. In custody he was beaten and sustained injuries, including to his head, loss of feeling on some parts of the body, head aches, damage to his kidneys, and bruising all over his body. He was taken to a hospital and then transferred to the pre-trial detention facility in Gdansk on Kurkowa Street. He was ill-treated during the transfer.

1349. By letter dated 21 December 2004, the Government informed that on 30 December 2002, the Sopot District Prosecutor started an investigation. Mr. Hulewicz, witnesses to the incident, the policemen involved, and a medical expert's testimony were heard. The testimony of persons present at the time of arrest did not explicitly confirm his version of events. The policemen explained that a stun grenade was used upon entering the flat, the explosion of which could have caused his temporary loss of consciousness, fall and light injuries (e.g. nosebleed, bruising). The medical expert stated that the injuries suffered, did not last longer than seven days, and therefore the injuries did not fulfil the provisions of Article 157.1 of the Penal Code. The use of plastic handgrips and metallic handcuffs during transfer, even if unpleasant, was justified. The prosecutor, after having analysed the evidence, decided to discontinue the investigation on 8 May 2003. Mr. Hulewicz had the right to appeal against the decision, and to institute a private charge according to Article 157.4 of the Code, however he undertook neither action. The Gdansk Regional Prosecutor subsequently affirmed the dismissal of the investigation. The police action in the course of the arrest cannot be considered torture or other cruel, inhuman or degrading treatment or punishment. The conduct of the authorities was reasonable and fully justifiable, and they also proved due diligence in the conduct of the investigation.

Republic of Korea

Follow-up to previously transmitted communications

1350. By letter dated 17 December 2003, the Government provided information concerning:

1351. **Lee Soo-ho**, **Kim Young-je**, and **Jang Kwang-su** (E/CN.4/2004/56/Add.1, para. 1332). The Government informed that these allegations have not been confirmed, but the following information shows that two members of the union, to which the alleged victims belonged, were arrested for violent acts wounding several policemen as well as for illegal demonstration. On 6 December 1999, members of the Korean Confederation of Trade Unions (KCTU), including the alleged victims, set up a container on the street in front of the National Assembly although the district authority and the police repeatedly warned them about the illegality of installing the container. When the police tried to remove the container the next day, the members resisted violently. Some of them locked themselves in the container. Others threw a large speaker at the police from the top of the container, causing several policemen to be injured. The Public Prosecutor's Office investigated the incident and indicted two members of KCTU for causing physical harm to the policemen. Later, the court sentenced both of them to two years and six months' imprisonment with a three-year suspended sentence. Since there were then no complaints regarding their allegations of cruel treatment, they were not confirmed by evidence at that time. Thus, it is now almost impossible for the government to verify whether their allegations are true or not. There is no evidence supporting them in the Government's possession. This case is closed unless the alleged victims provide evidence to support their allegations. There have been no formal or informal complaints made on behalf of the alleged victims. The Government fully guarantees the right to freedom of expression and of peaceful assembly and association as set forth in the article 19 of the International Covenant on Civil and Political Rights. At the same time, the Government has been firm and strict in dealing with those resorting to illegal and violent means in the execution of those

rights, including illegal occupation of roads, violent acts, and destruction of production and public facilities. The Government has endeavored as far as possible to minimize the number of arrests by investigating without detention those protesters who did not mastermind or commit violent acts, and by releasing them without charge.

1352. Over 300 members of the Daewoo Motors Workers' Union of the Bupyung Plant and their lawyer, **Park Hoon** (ibid, para. 1333). The Government informed that contrary to the allegations, they were engage in illegal and violent activities, kidnapping 12 policemen, incinerating two police cars, injuring 55 policemen, and occupying roads illegally, in protest of the police's obstruction. On 9 April 2001 about 200 discharged unionists under the leadership of Park Hoon illegally occupied six roads and attempted to enter the factory, damaging its iron-wired fences. The next day, as their attempt failed due to the police blockade, about 450 discharged unionists, including Park Hoon, became violent, occupying roads and abducting and beating 12 policemen. After they robbed the policemen of anti-riot equipment, including 34 shields, 31 helmets and two walkie-talkies, they took their shirts off and lay down on the roads. The alleged incident took place when the policemen attempted to beak up illegal the occupation of the roads by the unionists. Even after the incident, some 200 discharged unionists continued to demonstrate, throwing stones and setting fire to two police cars. The protestors tried to enter the office as part of an illegal gathering, and while illegally blocking roads. Thus, it was legitimate for the police to prevent the illegal attempt of the unionists whose intention was clearly to occupy the factory. The police's action was not in disobedience to the ruling secured by the unionists because it did not prohibit the police's prevention of planned illegal activities. Due to the incident on 10 April 2001, 55 policemen were injured, three severely, and about 40 unionists including Park Hoon were also injured, two severely. Park Hoon instigated the abduction of 12 policemen and acts of mob violence. Thus, the police's acts were to restrain him and end the illegal activities he incited. It is regrettable that some unionists were injured in the process, but it took place in the course of lawful actions, not abuse of power. On 19 April 2001, 92 unionists of Daewoo Motors, including Park Hoon, filed a complaint against the chief of the National Police Agency and 18 police officers with the Supreme Public Prosecutor's Office. Seven unions and civil organizations, including the Korean Confederation of Trade Unions and the Catholic Human Rights Commission, followed suit. According to the complaints, the incident was investigated by the Incheon District Public Prosecutor's Office. On 30 December 2002, the complaints against the chief of National Police Agency and the 18 policemen were issed by the Office. However, since the complainants applied for adjudication to the Seoul High Court, attempting to overturn the dismissal, further inquiries are expected. If needed, legal action may be taken depending on the result of the adjudication. Immediately following the incident, the chiefs of the Incheon District Police and of the Bupyung Police Station were suspended in relation to the incident. This was a preliminary measure prior to completion of further investigation to determine whether the mentioned chiefs bore responsibility for the incident. The suspension was, however, not either an admission of or a punishment for impropriety or violation of the law. There were no penal sanctions imposed on the alleged perpetrators because their acts were legitimate implementation of official duties to maintain law and order and thus, the result was dismissal of charges against them. No policemen were punished, because there was no evidence to charge them of irregularities according to the investigations by the Incheon District Public Prosecutor's Office. The inquiry by the Incheon District Public Prosecutor's Office was conclusive. On 19 July 2001, the National Police Agency provided 98,759,640 Korean won to the labor union of Daewoo Motors for the medical expenses of the unionists,

and according to the labor union, that money was spent on the medical fees for injured unionists including Park Hoon, as well as 55 policemen.

1353. By letter dated 17 December 2003, the Government provided information concerning:

1354. **Ha Young-ok** (E/CN.4/2004/56/Add.1, para. 1335). The Government informed that the Seoul District Prosecutor's Office investigated the case after seven representatives from non-governmental organizations (NGOs) accused investigators of the National Intelligence Service (NIS) of torturing Mr, Ha. The investigation concluded on October 20, 2000 that there was no evidence to support the allegations that he was subjected to violence and drugged during the interrogation. Ha Young-ok claims that he was tortured into confessing. In fact, he had no choice but to confess, as his accomplices had already confessed his and their roles in the crime. Overwhelming evidence had been produced, including a radio and secret codes used for his illegal correspondence with a North Korean agent, along with other supporting documents proving the correspondence. Torturing Ha Young-ok was actually impossible due to daily visits by his lawyer and doctors who would have detected any torture throughout the interrogation period. According to doctors, who physically examined Ha Young-ok at the time of the interrogation, there was no injury other than a scratch on his left knee made at the time of arrest. Evidence submitted by Ha Young-ok's doctors were insufficient, as the examination of Ha Young-ok took place four months after the alleged torture, and because it was solely on written replies from Ha Young-ok, respectively. The investigation concluded that there was no reason to suspect that Ha Young-ok had been tortured. If Ha Young-ok confessed because of torture or the influence of medication, it would be natural to assume that the interrogators forcibly extracting confession would ensure that Ha Young-ok confessed all of his crimes. However, he still has not confessed important aspects of the crime such as information regarding the structure of the anti-government entity, "Democratic Revolutionary Party" that he organized, or regarding other party members. The case is closed since Ha Young-ok did not request a re-examination of the case to the High Public Prosecutor's Office when he could have done so, challenging the decision of the Seoul District Public Prosecutor's Office. The court sentenced him to eight years' imprisonment on 16 June 2000. Under a general amnesty, he was released on 30 April 2003.

1355. **Phil-ho Jeong** (ibid, para. 1336), the Government informed that contrary to the allegations, for his heath and hygiene, leather handcuffs were removed from him several times a day whenever needed, including for writing, daily exercise, washing, haircut, and medical examinations. Phil-ho Jeong was protected by the legal use of metal and leather handcuffs after duly taking into consideration his psychological instability and the high possibility of his re-escaping or hurting himself or others. He was indicted for violating the Psychotropic Drugs Control Act and committing an act of special robbery. On 24 February 2000, he escaped the Kwangju District Court during his trial, after stabbing a duty officer in the neck with a home-made knife. Since Phil-ho Jeong showed psychological instability after his re-arrest on 7 March 2000, metal handcuffs were used to prevent him from committing suicide or injuring during his trial, after stabbing a duty officer in the neck with a home-made knife. Since Phil-ho Jeong showed psychological instability after his re-arrest on 7 March 2000, metal handcuffs were used to prevent him from committing suicide or injuring others, in accordance with article 14 of the Penal Administration Act. Article 14, paragraph 3 of the Act prohibits the use of restraining tools, including handcuffs, as a means of punitive measures. A

straitjacket is not permitted to be used as one of restraining tools in the Korean judicial system, in accordance with the Penal Administration Act. Phil-ho Jeong's allegation of torture or cruel acts with use of restraining tools including handcuffs has no grounds, as those restrained by such tools are closely inspected to ensure their physical health in accordance with other related laws. Phil-ho Jeong has submitted petitions three times to the Minister of Justice insisting that his basic rights were violated, but all of his petitions were dismissed. He filed complaints six times in the Public Prosecutor's Office, but all of his complaints were likewise dismissed. As he is resorting to other means of recourse, the decisions are not final. Phil-ho Jeong brought a constitutional challenge against the Penal Administration Act and the Penal Procedure Code, which is under review. He also petitioned eleven times to the NHRC, which is now investigating his case. Phil-ho Jeong has brought a lawsuit for compensation, but the suit was dismissed by the Chungsong District circuit court.

Republic of Moldova

1356. By letter dated 6 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning **M. G.**, a 14-year-old boy, of Cojusna village. On 16 July 2003, he was alone at home with his brother I., 17 years old. Two policemen came to the house, seized M. G. and took him in a car to Cojusna Police Station. At the station, M. G. was interrogated in the absence of his parents. Three policemen accused him of stealing money and valuables from a house in the village. They asked M. G. to sign a confession and threatened to kill him if he did not. According to this confession, M. G. would have accepted to pay 6,000 lei to the victim of the theft. He denied the accusations and refused to sign any paper given to him. A policeman took him to a room with no windows and beat him with a rubber stick over his head and body, demanding that he sign the confession. The policeman threatened to detain him in a cell with adult criminals. He locked M. G. in the room for a while, but came back and continued to beat him. At 6 p.m., M. G. was finally released. He suffered from headaches and dizziness and vomited. His mother took him to the "Ignatenco" Children's Hospital in Chisinau, where he was hospitalized for over one week. M. G.'s mother informed the Prosecutor's Office of the incident, but was told that the policemen's behaviour was legal and that the allegation of torture was untrue.

1357. By letter dated 15 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Pavel** and **Vitaliy Levinec**. In 2002, they were sentenced to 20 years' imprisonment and sent to penal colony 29.4. At the time the Penitentiary Department of the Ministry of Justice warned them that their assassination was planned by a group of prisoners. On 19 April 2003 at 7.30 p.m., 100 prisoners penetrated the premises where the brothers were held and severely beat them up. On 20 April, the brothers were taken to the Republican Hospital of the Penitentiary Department for treatment and discharged on 12 June. It is alleged that the prison administration took no steps to prevent the attack, but facilitated it by leaving the doors between the "zones" of the prison unguarded. On 12 June the brothers were transferred to colony 29.15. On 6 September 2003 a large number of convicts again attacked the brothers, resulting in serious injuries. Again the prison personnel did not intervene. The brothers were taken to the same hospital. In both incidents, no steps were taken to identify and punish the perpetrators.

Romania

1358. Par lettre en date du 27 mai 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels **Gheorghe Emilian**, 34 ans, aurait été arrêté par des agents de police le 5 novembre 2002 alors qu'il se trouvait dans un bar du centre de Pitesti avec trois autres hommes, dont son frère et son cousin. Ils auraient tous les quatre été amenés au poste de police n° 1 de Pitesti sans recevoir aucune explication. Une fois arrivés, des agents de police les auraient traités de gitans, auraient proféré des insultes racistes et leur auraient dit que les gitans comme eux n'étaient pas autorisés à fréquenter le centre de la ville. Gheorghe Emilian aurait été conduit dans une chambre séparée, où il aurait reçu des coups de poing et de pied et des gifles. Ils auraient finalement été remis en liberté mais auraient reçu une amende pour association à des fins d'échange illégal de devises étrangères. D'après des examens médicaux, Gheorghe Emilian serait depuis lors atteint de surdité à l'oreille gauche, ce qui aurait entraîné des troubles psychologiques. Une plainte aurait été déposée auprès du Bureau du procureur.

1359. By letter dated 15 November 2004, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government responded to some of them by letter dated 21 December 2004:

1360. **Condrea Petru**, age 27. Between 15 and 16 January 2003, he was detained by the Galati police (whose names are known to the Special Rapporteur), beaten and denied food. He sustained head injuries. No action was taken upon his complaints.

1361. The Government informed that he was retained by the Galati police for robbery, and later sentenced to three years and six months in prison. He did not lodge any complaint on mistreatment so there was no investigation on such allegations. Moreover, from the medical and other records no evidence was found as to injuries or related medical treatment. However, after being informed about the report addressed to the Special Rapporteur on torture, he lodged a complaint on mistreatment by the Transport Police Inspectorate. Following that complaint, the Prosecutor from the Galati Court of Appeal made an investigation against five policemen, but no evidence to substantiate the complaint was found.

1362. **Trofin Marian**, age 32. On 30 January 2003, at the IASI Police Station, he was shackled and beaten with wooden sticks and had his hair pulled out by the prosecutor. He sustained bruises all over his body, and no medical treatment was provided. No action was taken upon his complaints.

1363. The Government informed that he was retained on 4 January 2003 for murder and robbery. No evidence was found about mistreatment, violence or need for medical treatment as a result of injuries.

1364. **Butnarasu Petru**, age 25. On 12 February 2003, he was beaten at Piatra-Neamt Police Station by a representative of the Prosecutor's Office. He was kicked and punched, and as a result, suffered a broken nose. He did not receive any medical treatment.

1365. The Government informed that he was detained on 12 February 2004, immediately after he had killed another person. There was no complaint about mistreatment or evidence of violence on his body.

1366. **Cristae Nicolae**, age 24. On 17 March 2003, he was beaten by guards in section 5 of the Jilava Penitentiary. He was punched in the head and kicked in the face, back and ribs. In the presence of a doctor, he was struck on his legs with truncheons and water was poured over him in order to extract a confession. He has not been able to see either family or friends. No independent medical exam was performed. On 8 July 2003, he was taken to the hospital for treatment.

1367. **Pencea Robert-Paul**, age 20. Between 23 March and 16 April 2003, he was beaten all over the body and head with truncheons and a hammer at the Giurgu Penitentiary. As a result he suffered injuries to his stomach, ribs, head, legs and hands. No medical treatment was provided.

1368. **Ionel Ghita**. On 17 July 2003, he was kicked in the back of the neck and pushed against the door in the infirmary of section 4 of the Jilava Penitentiary a punishment for going to the medical unit. He sustained a bleeding nose, and suffers from headaches. No action was taken upon his complaints.

1369. **Agache Vasile Viorel**, age 20. Between 24 and 25 August 2003, he was put in shackles by police officers at Petrila Police Section and beaten with truncheons. He sustained back injuries as a result. His family was allowed to visit him after 29 days, and he was not medically examined.

1370. The Government informed that he was detained on 24 August 2003 for robbery. After investigations, it was concluded that there had been no evidence of violence or mistreatment, the only medical finding being a urinary infection.

1371. **Dumitru Ion**, age 37. On 26 June 2003, he was beaten with a truncheon by a policeman at the Constanta Police Department. As a result he sustained a broken rib.

1372. The Government informed that he was detained on 23 June 2003 for rape. The investigation on the alleged mistreatment concluded that there was no incident related to his detention from 26 to 27 June 2003. On 1 July 2004 he asked for a medical examination. The diagnoses of hyperacid gastritis and dyspeptic syndrome were made. On 24 July 2004, he was brought to the Constanta County Hospital, where he was diagnosed with a cranium contusion. He declared at the time that he hit himself against the doorframe. The investigation showed that he started complaining of the injuries in February 2004, after filling in a form received from a human rights organization. He did not officially lodge a complaint.

1373. **C. P.**, age 17. On 17 February 2004, he was beaten by two policemen (whose names are known to the Special Rapporteur) at the Petrosani Police Station. He was held between two tables, beaten with sticks and kicked. He sustained bruises and injuries all over the body. No medical treatment was provided.

1374. The Government informed that he was arrested for theft on 17 February 2004. Following the letter received from the Special Rapporteur, an investigation was undertaken by the Petrosani Police. On this occasion, he lodged a complaint for the first time against four policemen. The complaint was registered by the Penal Research Service of the Hunedoara Police Inspectorate, and the investigations are underway. Prior to December 2004, he had not complained but had mentioned mistreatment in a discussion with the representative of a human rights organization.

1375. **Ion Mihaita Nitu**, age 32. On 20 February 2004, he was beaten in Cell No. 624 in the Bucharest-Rahova Penitentiary, in the presence of a military officer, by five masked members of the Special Intervention Group, which is the unit responsible for maintaining order and discipline in prisons. He was beaten, punched, kicked and hit with truncheons. The blows were directed to the kidneys, head and back and continued as he fell to the ground. He was also subjected to abusive language and threats. He sustained injuries to his head, teeth, and back. He was denied access to family and lawyers for several days following the beatings. He was superficially examined by the prison doctor one week later, and several weeks later was taken to a hospital for treatment for his back. Medical certificates from the hospital confirm the injuries sustained. A complaint was submitted to the Military Prosecutor's Office, Bucharest, who interviewed Ion Mihaita Nitu and seven inmates who witnessed the incident. However, he was pressured by the penitentiary officials to withdraw the complaint.

1376. **Roaita Alin-Narcis**, age 29. Between 1 and 5 March 2004, he was kicked and punched in his liver and head by Brasov policemen. He sustained injuries to his head and the left part of his body. He was seen by the penitentiary doctor two weeks later, but no further steps were taken. His complaints to the military court in Brasov did not lead to any action.

1377. The Government informed that he was not detained in any Brasov institution. There is no complaint registered with the Office of the Prosecutor in Brasov in the years 2003 to 2004.

Appels urgents

1378. Le 3 mars 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur le droit à la santé et le Rapporteur spécial sur le droit à l'alimentation, concernant les conditions de vie à l'**hôpital psychiatrique de la ville de Poiana Mare**, qui accueillerait 440 malades. Il est allégué que 17 patients y seraient décédés pour cause de malnutrition et d'hypothermie depuis le début de l'année 2004. En 2003, on aurait compté 84 décès, dont la plupart seraient dus aux mêmes problèmes. Le personnel hospitalier aurait exprimé son inquiétude au sujet du manque de fonds pour assurer un traitement adéquat aux patients. Ces derniers seraient faméliques, mal vêtus et infectés de poux. L'état des dortoirs et des lits serait pauvre. Le système de chauffage ne serait pas utilisé malgré le fait que l'hôpital, bâti sur le site d'une ancienne base militaire, se trouve dans une région où les températures hivernales descendent régulièrement en dessous de zéro degré. Le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) a visité cet hôpital en 1995 et en 1999. Suite à la première visite du CPT, le Ministre de la santé aurait déclaré que l'hôpital psychiatrique de Poiana Mare serait graduellement éliminé en tant qu'hôpital. Dans son rapport sur la visite effectuée en 1999, le CPT « recommande aux autorités roumaines de persévérer dans leurs efforts d'amélioration

des conditions matérielles de séjour des patients de l'hôpital psychiatrique de Poiana Mare. Il convient, en particulier, de mener à bien le plus rapidement possible les travaux de réfection restant à faire et de s'assurer que l'alimentation des patients, tant du point de vue de la quantité que de la qualité, ne descende pas en dessous du niveau observé lors de la visite. Il faudra aussi veiller à un calcul plus rigoureux des normes caloriques. Il recommande également de veiller à ce que les patients disposent de produits d'hygiène appropriés en quantité suffisante, ainsi que d'une vêture adaptée aux variations saisonnières (chaussures, chaussettes, etc.). En ce qui concerne ce dernier point, il y a aussi lieu de permettre au plus grand nombre possible de patients de porter leurs vêtements personnels ou de mettre à leur disposition des habits appropriés qui ne soient pas des uniformes ». (CPT/Inf (2003) 25, par. 208).

Suite donnée aux plaintes signalées dans des communications précédentes :

1379. Par lettre datée du 16 décembre 2003, le Gouvernement a répondu à des cas précédemment transmis par le Rapporteur spécial (E/CN.4/2004/56/Add.1, par. 1338 à 1344), concernant :

1380. **Teodor Cicerone Nartea** (ibid, par. 1339). Le Gouvernement a informé qu'il avait été arrêté en flagrant délit de vol. M. Nartea s'est opposé à l'interpellation et a été immobilisé par les policiers par des méthodes légales. Il a été placé en détention pendant une période de 24 heures et a été conduit devant le procureur qui a décidé de son placement en détention pour une période de 30 jours. Conformément à la loi, le sujet a été examiné avant ce placement par les médecins de spécialité de l'hôpital du Ministère de l'intérieur qui n'ont constaté aucun problème médical majeur. M. Nartea n'a été soumis ni à des violences, ni à des mauvais traitements. Il a été assisté tout au long de la procédure par des défenseurs et ne s'est plaint à aucun moment de mauvais traitements.

1381. **Iulian Dragoi**, **Dragos Vilcu** et **Marius Vileanu** (ibid, par. 1340). Le Gouvernement a informé que ceux-ci avaient jeté de la colle au visage du maire qui était venu les informer de l'interdiction des affiches électorales dans des endroits autres que ceux prévus à cet effet par la commune. Suite à une réclamation verbale du maire, des policiers ont tenté d'intercepter ces personnes et de contrôler leur identité, mais ceux-ci ont bloqué le véhicule de police et menacé le policier qui a réussi à se dégager et à rejoindre le poste de police sans enfreindre aucune disposition légale. Les vérifications conduites par l'inspectorat de police ont montré que les plaintes déposées ne sont pas fondées.

1382. **Mircea Chifan** (ibid, par. 1341). Le Gouvernement a confirmé que celui-ci était décédé dans sa cellule de détention le 26 décembre 2004. Sa mort a fait l'objet de vérifications et de recherches minutieuses qui ont conduit le laboratoire de médecine légale de Suceava à conclure qu'il était mort d'une cirrhose hépatique décompensée avec surcharge parenchymateuse du foie. Le parquet militaire de Bacau, institution du Ministère public, a décidé de ne pas lancer de poursuites pénales, le décès ayant des causes pathologiques.

1383. La **famille Acsinie** et M. **Anton Florin** (ibid, par. 1342). Le Gouvernement a informé qu'un dossier pénal a été ouvert par des procureurs du parquet militaire du tribunal militaire de Iasi. Le policier accusé d'avoir soumis **Mihaita** à des mauvais traitements a fait

l'objet d'une enquête qui a été close faute d'éléments constitutifs de l'infraction de recherche abusive.

1384. **I. S.** (f), âgée de 15 ans, et **T.S.** (f), âgée de 16 ans (ibid, par. 1343). Le Gouvernement a indiqué que les jeunes filles accompagnées de deux garçons avaient violenté le policier et dérobé son portable. Le policier a réussi à immobiliser I.S. et l'a conduite au siège de la police pour interrogatoire. La mère de la jeune fille est arrivée au poste de police très peu de temps après. Les parents des deux jeunes filles ont porté plainte contre le policier pour avoir effectué un interrogatoire de manière abusive. Le policier a été poursuivi en justice pour comportement abusif et sanctionné. Le Ministre de l'intérieur a par ailleurs ordonné la mise en réserve de l'officier.

1385. **Paul Surdu** (ibid, par. 1344). Le Gouvernement a indiqué que les Ministères de l'administration et de l'intérieur ne pouvaient se prononcer sur une problématique relevant de la compétence du Ministère de la justice.

Russian Federation

1386. By letter dated 28 January 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur notified the Government that he had received allegations concerning **Aslan Davletukaev**, Avtury. He is a human rights defender who had been working as a volunteer with the Society of Russian - Chechen Friendship (SRCF) since 2000, in particular gathering information on the situation of human rights in Chechnya for the SRCF Information Centre. On 10 January 2004 at 10.15 p.m., approximately 50 armed men in three military and two civilian vehicles arrived at his home, where they beat him and forced him at gunpoint into one of their cars. On 16 January 2004, the body of Aslan Davletukaev, apparently showing signs of torture and mutilation, was found by reconnaissance units of the Russian army near a highway at the entrance to Gudermes. His death was the result of a bullet wound to the back of the head.

1387. By letter dated 13 April 2004 the Government reported that on 9 January 2004, at approximately 11 p.m., unidentified persons wearing camouflage uniforms and masks and armed with automatic weapons arrived in three armoured personnel carriers and two UAZ cars in the village of Avtury, Shalin district, and took Aslan Davletukaev away in an unknown direction. On 18 January 2004 the Shalin district procurator's office initiated a case on the basis of evidence of an offence under article 126 of the Criminal Code, concerning the abduction of a person. The body of Aslan Davletukaev, showing signs of a violent death, was discovered at about 10 a.m. on 17 January 2004 by the Dzhalka settlement of Gudermes district. The Gudermes district procurator's office initiated a case under article 105 of the Criminal Code, concerning homicide. Inspections were made at the crime scenes, interviews with witnesses and relatives were conducted and forensic examinations ordered. Inquiries were prepared and addressed to the directors of the Ministry of Internal Affairs and the Federal Security Service, as well as troop units and command staff, with a view to obtaining information about the conduct of special measures by military personnel of the federal forces in the village of Avtury. The investigation is continuing and is being monitored by the procurator's office of the Chechen Republic.

1388. By letter dated 5 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning the following persons. The Government responded by letter dated 5 October 2004.

1389. **Arthur Beksultanov**, aged 22, Achkhoy-Martan District Centre, Chechen Republic. On 18 February 2004. at about 3 a.m., he was seized from his home by armed masked men believed to be from the Federal Security Service of Achkhoy-Martan district. They put him in an armoured personnel carrier and drove away. The next day Arthur Beksultanov was found at the exit point of Ackhoy-Martan district centre, in the direction of Bamut village. He was shirtless and had been severely beaten.

1390. The Government reported that it had no information concerning Arthur Beksultanov. However, concerning Movsar Vasaevich Beksultanov, on 12 February 2004, around 2 a.m., unidentified armed, camouflaged and masked individuals burst into his home and took him away. Three hours later he was released on the road to Bamut. An inquiry into the incident by the Achkhoy-Martan district internal affairs office investigator was conducted. Movsar Vasaevich Beksultanov made no declaration concerning the use of violence against him, nor did he submit medical documents confirming that he had sustained bodily injuries. It was decided on 13 February 2004 not to open a criminal case as no offence was found to have been committed. On 9 September 2004, the Chechen Republic Procurator's Office decided to overrule the decision, and case materials were transmitted to the Achkhoy-Martan inter-district procurator's office for further examination.

1391. **R.S. Kantaeva**, **Rustam Kantaev**, aged 21, **Beslan Kantaev**, aged 43, and **Ruslan Kantaeva**, of Kolkhoznaya Street, Achkhoy-Martan village, Chechen Republic. On 3 January 2004, at about 4 p.m., three armoured personnel carriers, accompanied by a UAZ police car, stopped at the house. Masked soldiers broke in, swearing loudly, and breaking and overturning its contents. Rustam Kantaev was knocked down, kicked and hit with rifle butts, and dragged out of the house. He was forced to lie face down in the snow, and with their guns aimed at his head, the soldiers threatened to kill him. R.S. Kantaeva was also held at gunpoint. The soldiers did the same to Beslan Kantaev. Ruslan Kantaeva was seized and dragged to the basement of the house and was beaten. The soldiers left after 30 minutes with jewellery, money, clothing and other valuables. When the police were contacted they said that they were powerless to do anything, and refused to intervene or report the incident.

1392. The Government reported that on 3 January 2004, armed, camouflaged and masked individuals arrived at the village of Achkhoy-Martan, where they split up into two groups. One group broke into the home of M.G. Kantaev, and stole money and valuables. Another group entered the home of R.S. Kantaeva. The occupants were taken into the courtyard and beaten with rifle butts. Valuables were stolen from the house. On 9 January 2004, criminal cases into these two events were combined. On 6 April 2004 the preliminary investigation into the case was suspended as no individuals had been found against whom charges could be brought. On 9 September 2004 proceedings in the case were resumed.

1393. By letter dated 20 September 2004, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government responded by letterd dated 30 November 2004.

1394. **Adlan Dovtaev**, aged 31, Gekhi village, Urus-Martan, and **Shaprudi Israilov**, Kulary village. On 30 December 2002, they were among eight persons who were stopped by an armoured personnel carrier (APC) near the roadblock at Chernoreche. They were dragged from their cars into the APC by uniformed men and taken to the headquarters of the Russian Armed Forces in the North Caucasus, Khankala. During the following two days six of the men were released, after having been subjected to torture and ill-treatment while being questioned about their alleged contacts with Chechen fighters. Adlan Dovtaev and Shaprudi Israilov were not released and their whereabouts are unknown.

1395. The Government reported that on 30 December 2002, near the roadblock at the settlement of Chernoreche on the Grozny-Urus-Martin highway, unidentified armed persons dressed in camouflage uniforms and travelling in an armoured personnel carrier and a UAZ vehicle stopped a VAZ-2107 motor car and detained its occupants, which included A. Dovtaev. The armed individuals then fired on another VAZ-2107 vehicle, as a result of which S.S. Israilov sustained gunshot wounds of varying degrees of seriousness. The occupants of both cars were detained and taken to the area of the Khankala settlement, where they were kept during the night from 30 to 31 December 2002, after which they were driven away to various parts of the Republic and released. All subsequently returned to their places of residence, with the exception of A. Dovtaev and S. Israilov. The whereabouts of the latter have not as yet been established. On 4 January 2003, the Grozny City Procurator's Office opened a criminal case on the basis of indications of offences under article 105.1 (homicide) and article 126.2 (abduction of a person) of the Criminal Code. Since the investigation revealed the involvement of military service personnel in the commission of the offences, on 7 June 2003 the criminal case was placed under the jurisdiction of the military procuratorial bodies. When questioned about the circumstances of the case, the occupants of the cars explained that they were questioned about their membership of illegal armed groups. During the interrogations they were subjected to physical pressure and beatings. On the following day they were taken away to various districts of the Republic and released. They are unable to identify the persons who detained and beat them. The testimonies of the victims in respect of having been beaten were not objectively confirmed during the investigation. They did not go to medical institutions for attention fpr any bodily injuries caused, and no statements accusing anyone of having inflicted beatings were received from them. On 4 January 2004, the investigator of the military procurator's office of the United Group of Forces (OGV) suspended the preliminary investigative proceedings on the basis of article 208.1.1 of the Code of Criminal Procedure in view of the impossibility of identifying persons chargeable for the offences. Search operations are being conducted in the case aimed at determining the whereabouts of A.D. Dovtaev and S.S. Israilov, as well as tracing the persons who committed the offences.

1396. **A.O.** and **A.S.** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, paras. 1367, 1368). According to recent information, the official investigation into their ill-treatment was reopened by the Nizhny Novgorod oblast procurator's office on 19 August 2003. On 16 September 2003, the above-mentioned persons, who are serving their sentence in the Arzamas juvenile correction facility, were threatened by a major (whose name is known to the Special Rapporteur) that if they did not sign a request to drop their complaint, they would be transferred back to the pre-trial detention centre IZ-52/1, where they first suffered their ill-treatment.

1397. The Government reported that by a judgement of Nizhny Novgorod's Sormovsky district court of 23 October 2002, the juveniles A.O. and A.S. were sentenced for the offence of assault with intent to rob to eight years' deprivation of liberty, with the sentence to be served in a correctional facility. For the serving of the sentence they were both sent to the Arzamas correctional facility in Nizhny Novgorod oblast, from where A.S. was transferred, on reaching 18 years of age, to a correctional facility for adults. The first complaints about the actions of the administration of Nizhny Novgorod remand centre No. 1 were sent in August 2002 by the legal representatives of A.O. and A.S., and also by the Nizhny Novgorod regional social organization "Committee against Torture". The appearance of the complaints coincided with the beginning of the trial of A.O. and A.S. It is alleged in the complaints that personnel of the remand centre and also adult fellow cellmates used physical force, including beatings and electric shock torture, against A.O. and A.S. with the aim of obtaining from them confessions to crimes which they had not committed. During the inquiry that was carried out, the claims made in the communications were not confirmed and consequently, on 26 August 2002, it was decided not to open a criminal case. From September 2002 onwards the oblast procurator's office began receiving numerous messages from foreign citizens seeking to protect the interests of A.O. and A.S. For a fuller and more objective verification of the issues raised in these communications, the oblast procurator's office on 26 September 2002 initiated a criminal case on the basis of indications of an offence under article 117.2 (a) and (d) of the Criminal Code relating to acts of torture. When questioned as witnesses, persons in the same cell as A.O. and A.S. made it clear that no physical or moral pressure had been exerted on the juveniles. While in remand centre No. 1, A.O. and A.S. did not present themselves in the medical unit for the treatment of physical injuries, and no objective information has been found to confirm the facts alleged in the communications. Furthermore, in the presence of a legal representative and lawyer, A.O. stated that no one had tortured him, and the complaints had been made with a view to prolonging the judicial investigation and mitigating the sentence. A.S. stated that he had no complaints against the staff of remand centre No. 1, and no physical pressure was exerted on him by anyone. In view of the foregoing, the criminal case was suspended on 26 November 2002, on the basis of article 24.1.1 of the Code of Criminal Procedure for lack of evidence of a crime. In order to conduct further investigative action to check on the claims made in the communication received from the president of the "Committee against Torture", the preliminary investigation into the criminal case was resumed. All the arguments were examined in the course of the investigation, but no confirmation of them was found. On 14 January 2003, an application was received from A.O.'s father, requesting that no further checks be conducted and that the case be closed, since he agreed with his son's testimony that there had been no violations of his rights. On 27 January 2003, the criminal case was again suspended on the basis of article 24.1.1 of the Code of Criminal Procedure, for lack of evidence of a crime. On 19 August 2003, in view of the incompleteness of the investigation, the decision to suspend the criminal case was overturned by the Nizhny Novgorod oblast Procurator's Office, and proceedings in the case were resumed. On 16 September 2003, an investigator went to the correctional facility to pursue investigations with A.O. and A.S., but they refused to give testimonies. At the same time an application was received from A.S.'s aunt, his legal representative, asking not to be troubled further, since she, like her nephew, had no complaints against anyone and they were fed up with claims about non-existent facts. On 19 September 2003, proceedings in the criminal case were suspended on the basis of article 24.1.1 of the Code of Criminal Procedure, for lack of evidence of a crime. However, in view of a communication received at the oblast

procurator's office from the president of the Nizhny Novgorod regional social organization "Committee against Torture" alleging the exertion of pressure on A.O. by the investigator to write an application for the case to be closed, the preliminary investigation into the case was again resumed on 6 November 2003. The preliminary investigation found no objective confirmation of the arguments set forth in the complaints of A.O. and A.S., their legal representatives and communications from human rights organizations alleging the use of violence and torture against them. In view of the foregoing, the criminal case was closed on 24 February 2004 on the basis of article 24.1.1 of the Code of Criminal Procedure for lack of evidence of a crime. It should be pointed out that the convicted persons themselves and their relatives repeatedly changed their testimonies during the investigation.

1398. **Akhmed Gisaev**. He was detained on 23 October 2003 and taken to ORB-2, an unofficial place of detention in Grozny run by the Operative and Search Bureau under the Russian Ministry of the Interior, which primarily deals with organized crime and is alleged to be a notorious "torture centre" in the Chechen Republic. He was taken to a small room on the third floor where he was kept for approximately three days. The window was covered with paper. He was questioned about his affiliation with Chechen opposition fighters and why he had worked for the police under the Chechen President. During the questioning he was kicked, beaten with batons and fists, burned with cigarettes and subjected to electric shocks on his right hand and foot. Before the interrogators left the room he was fixed to a water pipe in the room. Some time later that day five or six men came into the room, blindfolded him with a plastic bag and put tape over his mouth. He was placed in the middle of the room while the men beat him from all sides and cursed at him. One man stood on his back, while others fixed a cable to his feet and to his handcuffs. He was told that if he admitted to being a member of a group of Chechen fighters, he might survive, otherwise he would die. After about three days he was transferred to another facility, believed to be the headquarters of the Russian federal forces in Khankala, where he was kept in a basement and was again beaten, tortured with electric shocks, deprived of food and sleep, verbally abused and made to drink alcohol, which is against his religious belief as a Muslim. The room in Khankala was damp and inhabited by rats. After 11 days in the basement he was transferred to another cell, where he was given food and water. He was released after his family paid a ransom. For a few days after his release he reportedly could not walk on his own. He reportedly suffered from serious headaches, insomnia and pain in his chest when breathing.

1399. The Government reported that on 23 October 2003, about 20 unidentified armed, camouflaged and masked individuals travelling in UAZ vehicles, on the pretext of checking passport formalities, entered his residence and drove Akhmed Gisaev away in an unknown direction. The Grozny Staropromyslovsky district Procurator's Office on 1 November 2003, opened a criminal case on the basis of indications of an offence under article 126.2 (a) (abduction) of the Criminal Code. According to his relatives, on 7 November 2003, Akhmed Gisaev was brought home by unidentified persons and released. He had been severely beaten. He spent some time receiving treatment, after which he left for Moscow. No one questioned to date has information about his whereabouts. It has not been possible to question Akhmed Gisaev about the circumstances of the offence committed against him. His mother explained that her son was not detained in the settlement of Khankala, was not subjected to torture or violence, and they had paid no ransom for his release. Other relatives gave similar testimony and also explained that they had not applied to any organizations for the protection of their rights. As regards his detention in ORB-2, witnesses explained that this is only a supposition

on their part. No objective data providing evidence of Akhmed Gisaev's having been kept in ORB-2 or at the military base in Khankala, and subjected there to torture and inhuman and degrading treatment, have been established. The preliminary investigation into the criminal case has repeatedly been suspended on the basis of article 208.1.1 of the Code of Criminal Procedure in view of the impossibility of identifying persons liable to face charges. On 23 August 2004 the Chechen Republic Procurator's Office overturned the decision on the suspension of the investigation, and proceedings in the case have been resumed. At present the investigation into the case is continuing and investigative and search operations are being conducted with a view to establishing the whereabouts of Akhmed Gisaev and the persons who committed the offence.

1400. **Timur Khambulatov**, age 24, Savelevskaia village, Naurskii district, northern Chechnya. At approximately 2 a.m. on 18 March 2004, he was detained on suspicion of belonging to an illegal group, and taken away by about 40 masked men wearing camouflage uniforms. They reportedly threatened to kill his mother if she intervened. Later that same morning, Timur Khambulatov was found dead in a police cell by the district procurator. His mother learned that he was dead the following day. The district procurator told to her that Timur Khambulatov had fallen off a chair, but also said that Federal Security Service (FSB) operatives had been involved in his detention. The body had been taken to a military base in Mozdok in North Ossetia for a forensic examination. The pathologist told his mother that there were a lot of bruises on the body, but that they were not sufficient explanation for his death. The head of the local FSB acknowledged that 10 of the men who had taken part in the operation were from his staff.

1401. The Government reported that on 18 March 2004, during raids conducted as part of the "Vikhr-Antiterror" ("Whirlwind Anti-terror") operation, members of the Naursky district section of the FSB Department for the Chechen Republic, together with members of a provisional combined grouping of sections and subdivisions of the Russian Ministry of Internal Affairs, the Naursky district Internal Affairs Department and military service personnel of the internal troops of the Russian Ministry of Internal Affairs, detained Timur Khambulatov and brought him to the internal affairs department. At his residence a home-made explosive device was discovered and seized. In the detective inspector's office at the Naursky district Internal Affairs Department, when being questioned about the circumstances of the discovery of an explosive device in his possession, Timur Khambulatov suddenly fainted and fell down. A physician was therefore called to give him first aid. The medical officer explained that on 18 March 2004, she had been summoned to administer first aid to Timur Khambulatov. On his face and hands there were abrasions and contusions. Having examined the patient, she gave him a heart massage, but that did not help, and he died. According to the forensic medical examination, Mr. Khambulatov's death had resulted from secondary cardiomyopathy complicated by the development of pulmonary-cardiac insufficiency, and this is confirmed by the findings of a histological study. The physical injuries in the form of abrasions and contusions found on the corpse are thought not to have caused serious harm to health. In connection with the infliction of physical injuries on Timur Khambulatov, the Naursky district Procurator's Office in the Chechen Republic opened a criminal case on the basis of indications of an offence under article 286.3 (a) of the Criminal Code involving the excessive use of official powers. When questioned in the case as a witness, the detective inspector of the Naursky district Internal Affairs Department's criminal section who had interrogated the detainee stated that during his apprehension and

transportation to the internal affairs department the person had offered no resistance and no physical force was used against him. He had suddenly felt poorly, fallen down, and without regaining consciousness died. No unlawful methods of investigation had been used against Timur Khambulatov. Similar testimonies were given by other officers who had taken part in the operation and in the detention and transportation of Timur Khambulatov. On 29 September 2004, the preliminary investigation into the criminal case initiated in connection with the infliction of physical injuries was suspended on the basis of article 208.1.1 of the Code of Criminal Procedure in view of the impossibility of identifying persons liable to be charged with a criminal offence. On 21 October 2004, the Chechen Republic Procurator's Office overturned the decision to suspend the preliminary investigation, and proceedings in the case were resumed. Investigative and search operations are being carried out with the aim of conducting a thorough study of the circumstances of the events and to identify the guilty persons.

1402. **Zelimkhan Osmaev** and another **eight men from Duba-Yurt village**, Chechnya. At approximately 2 a.m. on 27 March 2004, eight military vehicles, carrying a large group of masked Russian federal forces in camouflage uniforms, entered the village and conducted a targeted raid on 19 houses. The masked men entered Zelimkhan Osmaev's house and took him away to an unknown location. His daughter tried to hold on to her father's leg, but was pulled away by one of the men, thrown against a bedpost and suffered a head injury. In another house in the village a 71-year-old woman was reportedly beaten when she tried to stop the masked men from taking away her son. They detained nine other men aged between 28 and 44, but released three of them soon afterwards. When later that day the relatives went to report the "disappearances" to the local police and procuracy, the authorities reportedly refused to register the cases. It was only on the following Monday that their reports were recorded and the procuracy started to investigate. From a member of the procuracy in Shali the relatives reportedly received information that the eight men were being held at the headquarters of the Russian forces in the North Caucasus in Khankala, which was denied by the military procurator in Khankala. On 9 April 2004 local residents found the bodies in a ravine near Serzhen-Yurt in the Shali region. The bodies bore gunshot wounds as well as marks of torture. A ninth body was later identified as a man from Duba-Yurt who had "disappeared" from his home in Grozny between 1 and 2 April 2004.

1403. The Government reported that on 27 March 2004, in the settlement of Duba-Yurt in the Shalinsky district of the Chechen Republic, unidentified masked individuals dressed in camouflage uniforms, armed with automatic weapons and travelling in UAZ vehicles abducted eight residents of the village, including Zelimkhan Osmaev, and drove them away in an unknown direction. On 31 March 2004, the Shalinsky district Procurator's Office opened a criminal case in connection with the abduction of Zelimkhan Osmaev and seven village residents on the basis of indications of an offence under article 126.2 (abduction of a person) of the Criminal Code. An investigative task force consisting of staff members of the procurator's office, the internal affairs department, the FSB Department for Shalinsky district and the military procurator's office was established to look into the criminal case. On 9 April 2004, the bodies of nine men showing signs of a violent death were discovered in forestland at a distance of 150 m from the Shali-Serzhen Yurt highway in the Beni-Tatol river bed. That same day the Shalinsky district Procurator's Office opened a criminal case on the basis of indications of an offence under article 105.2 (homicide) of the Criminal Code. In the course of the investigation the persons killed were identified as being the villagers of Duba-Yurt,

Shalinsky district, who had been abducted on 27 March 2004, as well as another person, who had been abducted by unidentified persons on 11 February 2004 in the city of Grozny. On 24 April 2004, the criminal cases opened in connection with the abduction and killing of the above-mentioned citizens were joined in a single proceeding. The findings of the forensic medical examination indicate that all nine corpses have multiple gunshot wounds on various parts of the body, which caused death. No other physical injuries were discovered on the corpses. In the course of the preliminary investigation, witnesses, including eyewitnesses to the events, were questioned, forensic medical and ballistic tests were arranged and conducted, and other investigative and search operations were carried out, but identifying the persons who committed the crime appeared not to be possible. In view of the foregoing, on 5 June 2004, the preliminary investigation into the criminal case was suspended on the basis of article 208.1.1 of the Code of Criminal Procedure of the Russian Federation on account of the impossibility of identifying the persons liable to be charged with criminal offences. The Chechen Republic Procurator's Office overturned the decision to suspend the investigation on 22 June 2004, and proceedings in the case were resumed. Investigative operations are now being conducted with the aim of shedding light on the crime. The claims as to the belated initiation of a criminal case in connection with the abduction of the villagers of Duba-Yurt and the refusal of the law enforcement authorities to accept submissions do not correspond to the actual situation, since a criminal case was opened within the statutory time limit, i.e. on 31 March 2004. Furthermore, on the day after the abduction, applications from relatives were received in the Chechen Republic procurator's office. They were all considered and replies were sent to the applicants.

1404. By letter dated 30 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1405. **V.K.**, aged 15, from the town of Petrov Val, Volvograd. On 1 June 2004, he was detained by police in connection with a murder investigation. His mother and a lawyer were present during two sessions of questioning that took place over the following two weeks, and he reportedly appeared to be frightened on both occasions. On 15 June, he was beaten by four men, two of whom were wearing police uniforms and two wearing plain clothes. He was neither given medical aid nor was the questioning halted when his nose started to bleed and he complained of chest pains. The police investigator reportedly told him that if he admitted to the crime, he would get a conditional sentence of two years. On 30 June, he signed a statement, which is reported to be "inconsistent and unrealistic", admitting to the murder. V.K. told his lawyer that he had signed the confession because he feared he would be beaten again. However, when he met his mother again on 10 August, in the presence of a policeman, he claimed that he had been treated well, and in a letter sent to his mother from the pre-trial detention centre, he stated that he had never been beaten and that no one had pressurized him into signing a confession.

Urgent appeals

1406. On 7 January 2004, the Special Rapporteur sent an urgent appeal concerning **Bashir Adamovich Mutsolgov**, aged 28. According to the allegations received, he was taken away on 18 December 2003 by representatives of the FSS in the Republic of Ingushetia. He was pushed into a white car with dark windows whose number plate was partially covered with mud. Before being pushed into the car, Bashir Adamovich Mutsolgov was hit with a gun butt

in the stomach. The car drove away in the direction of the Rostov-Baku motorway. Bashir Adamovich Mutsolgov was taken to the FSS department in Magas town, where he is thought to have spent a night in the basement. On the following day he was taken to the Khankala settlement in Grozny, where he is believed to be currently held. However, no official information has been provided to his relatives about his whereabouts since his alleged arrest.

1407. By letter dated 24 February 2004 the Government reported that Bashir Adamovich Mutsolgov was abducted at 2 p.m. on 18 December 2003 in the town of Karabulak, Republic of Ingushetia, by unknown individuals and driven away in a white motor car registered in Stavropol Territory but with undistinguishable number plates. The Karabulak procurator's office on 26 December 2003 initiated a criminal case pursuant to article 126 of the Criminal Code, concerning the abduction of a person. Investigations did not uncover Bashir Adamovich Mutsolgov's whereabouts. It has been established that the law enforcement bodies of the Republic of Ingushetia and of the Chechen Republic, and the Provisional Operations Group of the joint troops and forces of the Russian Ministry of Internal Affairs had not detained him or brought him to the settlement of Khankala in the Chechen Republic. There are no detention centres there.

1408. On 15 January 2004, the Special Rapporteur sent an urgent appeal regarding **Khamzat Osmaev**, a 50-year-old physiotherapist. According to the allegation received, he was was arrested on 12 January 2004 at approximately 5 p.m. in the Republic of Ingushetia by seven masked men in military uniforms believed to be members of the Russian federal forces. A white vehicle with tinted windows and no number plates stopped outside the medical massage centre that Mr. Osmaev runs in Plievo, on the outskirts of Nazran. The men forced him into the car and drove off in the direction of Nazran. His whereabouts are reportedly unknown since then.

1409. By letter dated 26 February 2004, the Government reported that on 22 January 2004 the Nazran Procurator's Office opened a criminal case in connection with the abduction of Khamzat Osmaev on the basis of an offence contrary to article 126 of the Criminal Code, concerning abduction. On 26 January he was freed by his kidnappers and returned home. He testified that, while in the vehicle, a bag was placed over his head and he was driven for two hours, whereupon he was locked in a room at an unknown location. Throughout his confinement he was visited by masked individuals who beat him and demanded that he confess to being a member of an illegal armed gang that had attacked the town of Budenovsk. After some time a bag was again placed over his head and he was taken to the outskirts of the village of Ordzhonikidzevskaya in Sunzha district, where he was freed. Khamzat Osmaev was unable to explain who had detained him and where he was held during that period. At the present time the investigation is continuing. An expert forensic examination has been scheduled to ascertain the seriousness of the bodily injuries caused to Khamzat Osmaev. A number of investigative and operational steps have been taken to identify the perpetrators of the offence, the vehicle they used and the place where he was held following his abduction.

1410. On 3 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women, with respect to allegations received concerning:

1411. **Eliza Gaitamirova**, a mother of four from the village of Gekhi, in the Urus-Martan region of the Chechen Republic. She was 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 told her mother that she had been detained, but did not specify on what grounds. It is reported that Eliza Gaitamirova 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 took her away. Her whereabouts reportedly remain unknown since then.

1412. **Milana Kodzoeva**, Kotar Yurt, Achkhoi-Martan, Chechen Republic. She 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 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. Her whereabouts are allegedly unknown since then.

1413. 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, Eliza Gaitamirova, was abducted and driven away to an unknown destination by unidentified armed individuals travelling in two motor vehicles. Her whereabouts have not to date been established. 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 on the basis of evidence of an offence under the same article of the Criminal Code, in connection with the abduction of Milana Ozdoeva. 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, where they abducted Milana Ozdoeva and drove her away in a motor vehicle. Her whereabouts have to date not been established. The investigation of the criminal cases in connection with the abduction of Ms. Gaitamirova and Ms. Ozdoeva 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 has not been established.

1414. On 4 February 2004, the Special Rapporteur sent an urgent appeal, concerning **Saarbek Sultanovich Nasarov**, aged 29, and a resident of of Grozny, Chechnya. According to the allegations received, on 5 January 2004, Saarbek Sultanovich Nasarov, and his brother Zaur Emidievich Nasarov, aged 23, left their parents' home in their car. They were stopped at around noon, arrested by police officers wearing masks, and taken to the Oktyabrsky district police office, where they were detained for five days. Their relatives did not learn of their detention until witnesses alerted them to the situation on 7 January. On 8 January, the Chief of the Investigations Department told the victims' uncle that the brothers were being detained at the police station pending legal proceedings against Saarbek Sultanovich Nasarov for having 1.2 kg of dynamite in his car. Nasarov Zaur was released on 10 January, and showed signs of being beaten. He reported that both he and his brother were detained in the area of summer cottages (dachas) of the Oktaybrsky district, where they were beaten and tortured with electric

currents for two hours by policemen. After the failed attempts by the police to make the brothers confess to storingweapons, they brought them to the police station where were held in a room which reportedly contained "chloride lime". Nasarov Zaur was not fed during the duration of his detention and was given water only once. On 16 January, Saarbek Sultanovich was allowed to see his uncle, with the investigator present. Saarbek Sultanovich told his uncle that he had been beaten and tortured with electric shocks in an attempt to make him sign a confession to the possession of weapons. He was forced to turn down the aid of a defence lawyer, as he was threatened with continued torture if he did not do so.

1415. By letter dated 28 April 2004, the Government reported that the two men were arrested on 6 January 2004, at around 1 p.m., by officers of the Oktyabrsky district Internal Affairs Office. An inspection of the car belonging to S.S. Nasarov revealed five sticks of dynamite and an electronic detonator under the back seat. Once it was established that Z.E. Nasarov was not connected with the objects found, he was released after questioning that same day. After S.S. Nasarov had explained how he had come by and transported the explosives, it was suggested that he should go home and return to the District Internal Affairs Office the following day. He refused to leave the building, however, saying it was dark outside and he feared for his life, so the officers at the Oktyabrsky District Internal Affairs Office offered him a bed for the night. The following day he left the District Internal Affairs Office premises, forewarned of the need to report to the official investigator on 8 January 2004. On 8 January 2004, S.S. Nasarov was detained and offered a lawyer. However, in the lawyer's presence, he wrote out a statement declining the services of a defence lawyer on the grounds that he was capable of conducting his own defence. On 12 January 2004, the Oktyabrsky District Court ordered S.S. Nasarov to be held in custody as a preventive measure. On 3 March 2004, final charges were filed against Mr. Nasarov under articles 208, paragraph 2, and 222, paragraph 2, of the Criminal Code. The charges were laid and the case-files subsequently made available to the accused. On 10 March 2004, the case was submitted to the Oktyabrsky District Federal Court for consideration on the merits. During the pre-trial investigation S.S. Nasarov did not file any petitions or make any allegations about the use of physical violence, torture or other unauthorized conduct. On 26 January 2004 S.A. Nasarov, S.S. Nasarov's uncle, submitted an appeal to the procurator's office alleging unauthorized conduct and physical and psychological violence against S.S. Nasarov during the investigation. In response to that, the Oktyabrsky District Procurator's Office carried out a check and decided, on 29 January 2004, not to institute criminal proceedings on the grounds that no crime had been committed. On 11 March 2004, the Oktyabrsky District Procurator revoked the decision not to institute proceedings, and the case-files were sent for further checking. On 16 March 2004, it was once again decided not to institute proceedings for the use of violence and unauthorized conduct during the investigation of S.S. Nasarov for the same reasons as above. During the checks, S.A. Nasarov explained that he had submitted the appeal on behalf of his nephew, Z.E. Nasarov, who had been arrested on 6 January 2004 together with S.S. Nasarov. He had learned from his nephew that officers at the district internal affairs office had treated him violently. Z.E. Nasarov did not report the use of violence by the law-enforcement agencies himself. He has now gone to Moscow with his mother and S.A. Nasarov does not know when he will return. According to the person in charge of the temporary holding facility, upon arrival S.S. Nasarov was examined by a doctor who found no signs of bodily harm. During his detention S.S. Nasarov did not complain about the use of unlawful methods during the investigation nor about his state of health owing to the use of violence. During the checks that were carried out, S.S. Nasarov refused to

provide any explanation on the matter. Z.E. Nasarov did not report the use of any physical violence or torture against him to the law enforcement agencies. Thus the checks carried out did not corroborate the allegations that violence and unlawful methods were used during the investigation of S.S. Nasarov.

1416. On 1 March 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Ruslan Soltakhanov**, of Mozdok, Republic of North Ossetia. According to the allegations received, on 13 February 2004, he was arrested by five Russian security officers in plain clothes at his house. No reason was given for the arrest, and several hours later they returned to search the house, and claimed they found two hand grenades. He is currently held incommunicado at an unknown location. Ruslan Soltakhanov has been known to foreign journalists, who often used his services as a driver to accompany them on independent visits to Chechnya. Most recently, he worked with Cox Newspapers' correspondent Rebecca Santana, and travelled with her to Grozny from 8 to 11 February 2004.

1417. By letter dated 13 May 2004, the Government reported that the alleged arrest of Mr. Soltakhanov in Mozdok on 13 February 2004 and his subjection to illegal treatment by the law enforcement authorities have not been confirmed. On 11 February 2004, after making statements at the Mozdok district procurator's office, Mr. Soltakhanov and Ms. Santana returned to Mr. Soltakhanov's home. Since 12 February, Mr. Soltakhanov has been living in Mozdok, with the exception of trips to Grozny and Belarus. During this time, the law enforcement authorities have not taken any action against him. He has not been subjected to harassment for accompanying Ms. Santana to Grozny from 8 to 12 February 2004.

1418. On 4 March 2004, the Special Rapporteur sent an urgent appeal concerning **Saarbek Sultanovich Nasarov** (see above). According to the allegations received, his lawyer has been prevented from meeting with him by the administration of the investigative prison of Grozny, Republic of Chechnya. He was told that S.S.Nasarov was moved to the Temporary Police Office (VOVD) of Oktyabrsky district, Grozny. However, it is reported that the VOVD was disbanded in March 2002. Therefore, fears have been expressed that S.S. Nasarov has been moved to an officially non-existent police office.

1419. On 2 April 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention with respect to allegations concerning:

1420. **Petimat Gambulatova**, and her three daughters, **Luiza**, **Lisa** and **Salmatu Musaeva**, and son **Magomed Musaev.** On 4 January 2004, they were arrested by Russian soldiers in Grozny and taken away in a military van. Her other son, **Achmad Musaev**, was arrested on 25 December 2003.

1421. **Luiza Mutaeva**, village of Assinovskaya. On 19 January 2004, she was taken away from her home by 20 Russian soldiers, all but six of whom were masked. They initially sought to detain all the male members of the fmily, but because the only males were a young boy and a disabled man, they demanded that Luiza Mutaeva and her younger sister go with them. The soldiers were persuaded to leave behind the younger sister. The cars they drove did not have licence plates.

1422. **Milana Ozdoeva** (cited in a previously transmitted communication; see above).

1423. By letter dated 30 June 2004, the Government reported that at about 1 p.m. on 25 December 2003, two unidentified armed and camouflaged individuals abducted Achmad Musaev from the "Stary poselok" bus stop in Grozny, and drove him away in an unknown direction in a VAZ-21099 motor vehicle with tinted glass windows and no licence plates. He was taken to the settlement of Khankala and then to another place. The Grozny Staropromyslovsky district procurator's office on 9 January 2004 initiated a criminal case based on evidence of an offence under article 126, concerning abduction. Despite the investigation and search operations conducted in relation to the case, it has not been possible to identify the persons who abducted him or to determine his whereabouts. On 15 January 2004, in connection with the abduction of Petimat Gambulatova, and her three daughters, Luiza, Lisa and Salmatu Musaeva, and son Magomed Musaev (see above), the Grozny city procurator's office initiated a criminal case based on evidence of an offence of abduction. During the preliminary investigation it was established that, on the night from 3 to 4 January 2004, unidentified armed, camouflaged and masked individuals broke into the apartment of the Musaevs in the Mayakovsky suburb of Grozny. They abducted them and took them away to an unknown destination. The abductors were speaking in Russian with a Chechen accent. A range of investigation and search operations have been conducted in connection with the abduction of the Musaev family, from which it has not been possible to identify the perpetrators of the abduction or to determine the whereabouts of the Musaevs. The involvement of military personnel of the federal forces and officers of the internal affairs bodies in the commission of these crimes has not been established. The preliminary investigation into both criminal cases is continuing. The investigation is being supervised by the Office of the Procurator of the Chechen Republic of the Russian Federation.

1424. On 14 April 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson of the Working Group on Enforced or Involuntary Disappearances, and the Special Rapporteur on the right to freedom of opinion and expression, regarding **Rashid Borisovich Ozdoev**, deputy procurator of the Republic of Ingushetia. According to the allegations received, he was stopped near a petrol station in Verkhnye Achaluki by three cars on 11 March 2004, after returning to Magas from Nalchik, Republic of Kabardino-Balkaria. One of the cars was identified as belonging to the Ingush Department of the FSS. Rashid Ozdoev was arrested, and his car was seen in an FSS car park in Magas. Rashid Ozdoev may have been taken to Vladikavkaz, Republic of North Ossetia, and later to the main headquarters of the Russian Federal Forces in the North Caucasus, in Khankala, Chechen Republic. A criminal case for abduction was opened on 15 March 2004. Rashid Ozdoev recently raised with the Ingush authorities, the General Procuracy and the head of the FSS of the Russian Federation his concerns about a number of unlawful actions reportedly committed by members of the FSS. He had received warnings that he would put his life in danger by reporting about these issues.

1425. By letter dated 30 June 2004 the Government reported that on 11 March 2004 Rashid Ozdoev was reported missing. Accordingly, on 14 March 2004 the procurator's office of the Republic of Ingushetia initiated criminal proceedings concerning abduction, and an investigative team was set up to handle the case. The investigation found that on the morning of 11 March 2004, on the instructions of the Ingushetia procurator's office, R.B. Ozdoev

travelled to the town of Nalchik as a member of an Ingushetia government commission, and at around 5:10 p.m. on the same day returned to the town of Magas, where the members of the commission parted on the square in front of the government building. R.B. Ozdoev was not seen again. During the investigation, relatives of the victim as well as members of the commission who had travelled to Nalchik with R.B. Ozdoev were questioned, issues related to R.B. Ozdoev's official duties were examined, and requests and instructions were addressed to the law enforcement agencies of the republic and neighbouring areas. Currently all necessary investigations and inquiries are being carried out in this case in order to establish the whereabouts of R.B. Ozdoev and the persons who carried out this abduction.

1426. On 4 May 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Stanislav Markelov**. He is a human rights lawyer who has worked on behalf of victims of alleged human rights violations in Chechnya and is currently representing the family of Zelimkhan Murdalov, a Chechen student who reportedly disappeared and was allegedly tortured to death by a member of the Russian special police force, OMON, in Grozny. It is reported that he also represents a journalist who has allegedly received death threats for publishing an article in relation to the same torture case. According to the allegations received, on 16 April 2004, he was travelling home on the Moscow metro when he was attacked by five men dressed in civilian clothing who surrounded him and shouted: "You got what you're asking for. No more speeches from you in court" They hit him on the head with a heavy object causing him to loose consciousness. He regained consciousness a few hours later and discovered that his lawyers licence card, his passport and his entry card for the State Duma as well as various documents related to his cases had been stolen. Stanislav Markelov was taken to City Hospital No. 68 where he was diagnosed with a concussion. On 21 April he filed a complaint about the attack with the Moscow City Department of Internal Affairs. A criminal investigation has not yet been opened.

1427. On 22 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson of the Working Group on Enforced or Involuntary Disappearances, regarding **Monnopzhon Rakhmatullayev**, a 53-year-old Uzbek imam (cited in previously transmitted communications, E/CN.4/2003/68/Add.1, para. 1197, and E/CN.4/2004/56/Add.1, para. 1400). According to new allegations received, he was released in August or September 2003 and returned to his home in the town of Marx, after the Russian authorities refused to hand him over to Uzbekistan. On 21 July 2004, three masked men arrived at his house and hit him and his wife several times. He was pushed into a car. The assailants did not identify themselves and did not tell him or his wife where he was being taken. It is alleged that these three men are working on the instructions of the Uzbek authorities. On the same day, his lawyer made inquiries to the regional authorities, and was told that no recent extradition request had been received from the Uzbek authorities. His son-in-law, Rivazhiddin Rakhmonov, was reportedly detained in Russia in May 2003. The Russian authorities refused to hand him over to the Uzbek authorities and he was released in July 2003. On the same day he was reportedly abducted and taken to Uzbekistan. He was tried in Uzbekistan in January 2004. He was also accused of "religious extremism".

1428. By letter dated 6 October 2004, the Government reported that the Procurator-General's Office took decisions on 2 July and 24 September 2003 not to surrender the men to the Uzbek law enforcement authorities. They were released from custody on 11 July and 25 September 2003. Subsequently, the internal affairs bodies and procurator's office of Saratov oblast were informed of the abduction of Monnopzhon Rakhmatullayev by unknown persons and the unexplained disappearance of Rivazhiddin Rakhmonov. When it was learned that Rivazhiddin Rakhmonov had appeared in Uzbekistan, the Kirov district procurator's office declined to open a criminal case for the lack of evidence of an offence. The Russian Federation Procurator-General's Office is verifying the legality of that decision. Concerning Monnopzhon Rakhmatullayev, the Saratov oblast procurator's office opened a criminal case on 21 September 2004 and an investigation is proceeding.

1429. On 7 September 2004, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders, regarding **Fatima Gazieva**, human rights defender and co-founder of the human rights organization Echo of War, and her husband, **Ilyas Itaev,** in Kalinovskaya, Naor, Chechnya. According to the allegations received, on 3 September 2004, they were arrested at their home in Kalinovskaya by Russian-speaking armed men and taken to an unknown location in military trucks. No explanation was given for the arrest. In April 2004, federal officers allegedly visited the village of Assinovskaya, where Fatima Gazieva previously lived, to ask about her activities and whereabouts.

1430. By letter dated 13 October 2004, the Government reported that they were brought by representatives of federal structures to the settlement of Khankala on 3 September 2004 to clarify any kinship relations with members of illegal armed formations. No unlawful actions were committed against them. On 4 September 2004, they were brought by helicopter to the village of Shchelkovskaya, from where they returned to the village of Kalinovskaya. They have no complaints against anyone in that regard. No violations of the law were found to have been committed.

1431. On 3 November 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 the independence of judges and lawyers, regarding **Oleg Evgenyevich Khoroshunin**, a 19-year-old student, resident in Kiev, Ukraine, and a citizen of the Russian Federation. According to the allegations received, on 30 October 2004, he was arrested by the Essentuki (Stavropol region) local police when he went to the station to apply for an "internal passport". He was beaten on his stomach and genitals. His family was denied access to him until 31 October. When she visited him, his mother reported that he was vomiting. No reasons have been given for his arrest and detention. He has been denied access to a lawyer.

Follow-up to previously transmitted communications

1432. By letter dated 20 January 2004, the Government provided information concerning **military operations conducted in Sernovodsk and Assinovskaya** (E/CN.4/2002/76/Add.1, paras. 1271-1273). The Government reported that as a result of complaints by the inhabitants of Sernovodsk and Assinovskaya that members of the Russian Federation's federal forces exceeded their official powers, used force and unlawfully deprived persons of their liberty during special operations conducted between 2 and 4 July 2001 to seek out members of illegal

armed formations, the Achkoy-Martan Inter-district Procurator's Office opened two criminal cases on 8 July 2001. During the investigation it was established that, in accordance with military order No. 3/01846 of 1 July 2001 issued by the commander of the Unified Group of Forces, members of sub-units of the Russian Federation Federal Forces conducted special operations between 2 and 5 July 2001 to seek out members of illegal armed formations in Sernovodsk and Assinovskaya. Following the conclusion of these special operations the inhabitants of Assinovskaya and Sernovodsk submitted to the Chechen Republic's law enforcement agencies 283 complaints of offences by members of the Russian Federation Federal Forces. With a view to the full and comprehensive investigation of the circumstances surrounding the detention of inhabitants of Sernovodsk and Assinovskaya and the identification and prosecution of the guilty officials, all the complaints submitted by citizens regarding unlawful acts by members of the Federal Forces were carefully examined, and, in a number of cases, formal decisions were taken. During the investigation into the Sernovodsk case it was established that a major and senior lieutenant, of the 46th rapid reaction special purpose detachment of the Ministry of Internal Affairs internal forces, were involved in the arrest of the missing persons A. Isigov and Z. Umkhanov. In that connection, the Procurator's Office of the Chechen Republic instituted criminal proceedings against them on 14 April 2003. On 25 June 2003, following the necessary investigations and on the instructions of the Deputy Procurator General, the case was referred to the Military Procurator's Office of the Unified Group of Forces for further investigation. The investigation into the case is still under way. Complaints concerning the unlawful deprivation of liberty and beating of A. Muzaev, M. Muzaev, A. Lulaev, S. Amagov, V. Madaev and M. Mazaev were also attached to the criminal case-files and were investigated. During the investigation A.R. Lulaev and S.A. Amagov stated that the information concerning their detention and beating given in their relatives' complaints was not correct, since they had neither been taken to nor detained on internal affairs agencies' premises and had suffered no bodily harm. Under the circumstances, the official in charge of the investigation decided that the proceedings for unlawful deprivation of liberty and bodily harm with respect to these two men should be abandoned, since no offence had been committed. The investigation of the unlawful acts committed against the Muzaev brothers, V. Madaev and M. Mazaev, is still under way. The persons Said and Soslan Bataev, M.U. Altamirov, LA. Eldiev, V.D. Susurkaev and A.M. Bataev referred to in the letter did not submit complaints concerning offences committed against them to the law enforcement agencies of the Achkoy-Martan district or the Procurator's Office of the Chechen Republic. At the time of the special operation in Sernovodsk, V.D. Susurkaev was head of the Sernovodsk territorial unit of the militia. At the time in question, Said and Soslan Bataev and R. Yasakov were arrested by personnel from the Achkoy-Martan district temporary internal affairs office under the presidential decree of 2 November 1993 on measures to prevent vagrancy and begging since they had no identity documents. Following establishment of their identity, the supervising procurator decided to release them from police custody. None of the persons referred to in the letter sought medical assistance from the Achkoy-Martan and Sunzha district hospital. A.S. Muzaev, an employee of the Sunzha district internal affairs office, was killed in Sernovodsk at about 2 p.m. on 25 October 2003 following a shooting incident with members of a rebel gang. This gave rise to the opening by the Achkoy-Martan Inter-district Procurator's Office on 25 October 2003 of a criminal case. It was not possible to establish the identity of A.K. Gubaev and Said Magomed Akhmedovich. According to the passport and visa service of the Achkoy-Martan district internal affairs office there was no record of these persons. In the course of the inquiry it was established that the violations of the law during the special operations became possible because of the failure of the persons in

charge of the operations to discharge their duties properly: the deputy commander of the main command of the temporary task force of the units and sub-units of the Ministry of Internal Affairs, the deputy commander of the temporary information centre serving the task force's investigations team, and the head of operations for the mobile intelligence service of the Ministry of Justice's department for the penal enforcement system in the Northern Caucasus. Criminal proceedings were instituted against the aforementioned persons, and on 21 February 2003 the Lenin district court in Rostov-on-Don found them guilty as charged and sentenced them. In view of the foregoing, it must be recognized that the law enforcement agencies of the Chechen Republic took the steps prescribed in the legislation relating to criminal procedure to investigate and elucidate the offences committed against the inhabitants of Assinovskaya and Sernovodsk.

1433. By letter dated 19 February 2004, the Government provided information concerning **Rafael Marsovich Fakhrutdinov** (E/CN.4/2004/56/Add.1, para. 1380). The Government reported that after he was discharged from the inter-oblast hospital (MOB) facility US-20/12 of the Central Penal Correction Department of the Ministry of Justice on 21 November 2003, he was placed in Remand Centre No. 4 (SIZO-4) with a recommendation to continue his treatment as an in-patient in the remand centre's medical unit, regularly taking the prescribed medication. On 26 December 2003, after a consultation with a cardiologist, he was sent back for the treatment to MOB, where he is at present. No confirmation was found of the report that Mr. Fakhrutdinov was forced by the administration of the remand centre to sign a statement that he does not require medical assistance. While in Correctional Colony No. 12 and Remand Centre No. 4, there were no instances of the refusal of medical assistance to Mr. Fakhrutdinov.

Rwanda

Appels urgents

1434. Le 19 mars 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, concernant le major **Félicien Ngirabatware**, **Augustin Cyiza**, et **Elizier Runyaruka**, qui auraient disparu depuis l'an dernier. Selon les informations reçues, Félicien Ngirabatware, pour lequel le Rapporteur spécial sur la torture avait envoyé un appel urgent le 22 avril 2003, et qui aurait été arrêté le 1er avril 2003, serait toujours détenu au secret au camp militaire de Kami à Kigali, bien que les seules indications officielles le concernant seraient des déclarations de la police et des militaires indiquant qu'il était toujours en vie sans donner d'autres détails. Il semblerait qu'il n'ait pas été inculpé et n'ait pas été présenté devant un juge depuis son arrestation, et que ses proches n'aient pas été autorisés à le voir. Il semblerait également qu'Augustin Cyiza, un ancien militaire, vice-président de la Cour suprême, président de la Cour de cassation et membre fondateur de deux organisations de droits de l'homme, ait disparu le 23 avril 2003. Il aurait été accusé d'être en relation avec l'ancien président, Pasteur Bizimungu, détenu à la prison centrale de Kigali depuis le mois de mai 2002. Le 23 avril 2003, M. Cyiza rentrait de l'Université libre de Kigali, où il donne des cours, avec l'un de ses étudiants, Elizier Runyaruka; tous deux ont disparu. La police aurait indiqué avoir retrouvé la voiture de M. Cyiza près de la frontière soudanaise, alors que des témoins affirmeraient avoir vu cette voiture le soir du 23 avril 2003 au camp militaire de Kanombe. Selon les informations communiquées, ces personnes auraient été visées à cause de

leur soutien à des figures de l'opposition au cours de la campagne des élections présidentielle d'août 2003.

1435. Le 16 juillet 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, concernant la situation de **Cesar Balume Wetemwami**, reporter-photographe et président de l'Association des photographes du Nord-Kivu (APHONOKI), République démocratique du Congo, qui aurait été arrêté le 5 juillet 2004 vers 15 heures, alors qu'il se rendait à Gisenyi, par des agents du service de migration. Cesar Balume Wetemwami aurait été emmené dans leurs bureaux où il aurait été interrogé pendant deux heures. A l'issue de l'interrogatoire, il aurait été remis entre les mains de militaires rwandais qui le détiendraient depuis lors dans un lieu tenu secret. Le motif officiel de son arrestation ne serait pas connu.

1436. Par lettre du 11 août 2004, le Gouvernement a répondu que Cesar Balume Wetemwami avait été arrêté par les services rwandais de l'immigration parce qu'il était entré illégalement sans les papiers requis, et qu'il avait été relâché après que lesdits services aient étudié son cas. Le Gouvernement a indiqué qu'il n'avait pas été maltraité.

Saudi Arabia

1437. By letter dated 12 October 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received information concerning Ms. **Mwanamkasi Mwimjanga**, a domestic worker in Dar es Salaam, United Republic of Tanzania. According to the allegations received, on 4 July 2004, she was raped by her employer, a Saudi diplomat (whose name is known to the Special Rapporteurs) at his home in Dar es Salaam. Ms. Mwimjanga 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 whil he was trying to leave the country. Attempts were made by Ms. Mwanamkasi's lawyer, the Ambassador of Saudia Arabia, and officials of 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 is said to be in custody in Saudia Arabia and it is reported that he will be prosecuted for this crime. Nevertheless, concerns have been expressed that the perpetrator may escape prosecution and the victim may not receive compensation.

Urgent appeals

1438. On 1 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 the right to freedom of opinion and expression regarding **Hussain Ali Rdaish Aldwaice**, a 38-year -old employee of the Saudi Telecommunication Company in Najran. According to the allegations received, he was arrested on 23 December 2003, at work, by secret police officers. They searched his office and confiscated documents and equipment. They then drove him to their headquarters, where they interrogated him. Mr. Aldwaice was tortured by being hung from posts and ceilings with steel wires, and deprived of sleep for

three to four days in a row. He is suffering from liver disease and was deprived of his medicine. Mr. Aldwaice is being kept in detention without charge and has had no access to a lawyer since his arrest.

1439. On 19 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 right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Matrouk al-Falih**, a professor of political science at King Sa'ud University, **Abdullah al-Hamid**, former professor of contemporary literature at Imam Muhammad bin Sa'ud University, **Muhammad Sa'id Tayyab**, retired journalist, Jeddah, **Tawfiq al-Qussayyir**, professor of electronics at King Sa'ud University, **Suleyman al-Rashudi**, retired lawyer, Riyadh, **Najib Al Khunaizi**, Qateef, **Khalid Al-Hameed**, Riyadh, **Amir Abu Khamsin**, Al Hasa, **Ali Al Dumaini**, **Adnan Al Shikes**, and **Abdulkarim Al Juhaiman**, all from Riyadh. According to the allegations received, on 15 March 2004, these persons were arrested by the Mabahith (secret police), apparently for criticizing the government-appointed National Commission on Human Rights as lacking independence, and for planning to set up their own "Saudi Independent Human Rights Committee". They have been accused by the authorities of issuing "statements which do not serve the unity of the country and the cohesion of society". These persons are held incommunicado at the General Intelligence (al-Mabahith al-'Amma) in 'Ulaysha, Riyadh. Three detainees were released on 16 March, although their names are not yet known.

1440. On 26 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders concerning **Matrouk al-Falih**, **Abdullah al-Hamid, Muhammad Sa'id Tayyab, Tawfiq al-Qussayyir, Suleyman al-Rashudi, Najib Al Khunaizi, Khalid Al-Hameed, Amir Abu Khamsin, Ali Al Dumaini**, and **Adnan Al Shikes** (cited in a previously transmitted communication, above), and **Hamad Al-Kanhel** and **Abdul-Rahman Alahim**. According to the allegations received, between 17 and 29 March 2004, 9 of the 12 people listed above were released after they were forced to sign a pledge to end their participation in any political or human rights activities and to stop calling for reforms in the Kingdom. Matrouk al-Falih, Abdullah al-Hamid and Ali Al Dumaini are believed to remain in incommunicado detention because of their refusal to sign this pledge. To date, no charges have been filed against them and they have been denied access to their lawyers since their arrest.

1441. By letter dated 12 August 2004 the Government informed that Matrouk al-Falih, Muhammad Sa'id Tayyib, Suleyman al-Rashudi, Abdullah al-Hamid, Tawfiq al-Qusayyir and Ali al-Dumaini were arrested for holding a number of suspicious meetings. Following an investigation, they were charged with engaging in acts that inter alia justified terrorism, encouraged violence and incited civil disturbance. Orders were issued for the release of Muhammad Sai'id Tayyib and Suleyman al-Rashudi on 28 and 29 April, and for the release of Tawfiq al-Qusayyir on 27 March 2004 after they admitted the misguided nature of their acts, apologized and requested that criminal proceedings against them be dropped. The investigation of Matrouk al-Falih, Abdullah al-Hamid and Ali al-Dumaini showed that they were responsible for organizing the meetings. The accusations against them were found to be substantiated and they were referred to the courts for judgement. All the accused have enjoyed

the rights guaranteed to them under the Code of Criminal Procedure, including the right to have the charges against them heard by a court of law, and their trial, at a first public hearing attended by their lawyers in which the Public Prosecutor read out the indictment against them, started on 9 August 2004. The second hearing is scheduled for 23 August.

1442. On 8 June 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **Mazen Saleh bin Mohammed al-Hussein al-Tammimi**, aged 30. According to the allegations received, he is held in incommunicado detention in the offices of the General Intelligence Service (al-Mabahith al-'Amma) in the town of Damman. On 31 May 2004, he was arrested at his family home in Damman, along with his wife and his four children. The members of his family were released the following day.

1443. On 13 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 the right to freedom of opinion and expression regarding **Muhanna bin Abdul 'Aziz al-Hubail**, aged 41. According to the allegations received, on the evening of 6 October 2004, he was arrested by members of the General Investigation Directorate in al-Ihsa. He is detained incommunicado.

1444. On 30 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 human rights of migrants and the Special Rapporteur on the independence of judges and lawyers regarding **Abbas Majood Akanni, Murtala Amao Oladele, Abbas Azeez Oladuni, Nurudeen Owoalade, Nurudeen Sani, Mohammed Abdulahi Yussuf, Wahid Elebyte, Ahmed Abbas Alabi, Suliamon Olyfemi, Mafiu Obadina, Samiu Hamud Zuberu, Kasim Afolabi Afolabi,** and **Abdullamim Shobayo**, all Nigerian nationals and migrant workers residing in Jeddah, aged between 20 and 30. According to the allegations received, they were among hundreds detained in Jeddah on 29 September 2002 after a policeman was killed in a fight between local men and African nationals. All the other men arrested on that occasion have been deported, including 21 who served prison sentences ranging from six months to two years and flogging. Subsequent to their arrest, the 13 Nigerian nationals were tortured and ill-treated, including being hung upside down and beaten and subjected to electric shocks to the genitals. Since their arrest over two years ago, the men have not had access to lawyers or consular assistance. Moreover, translators were present on only two of the four previous court appearances, and all proceedings and court documents are in Arabic. On 22 November 2004, a hearing in the case of the 13 men took place before three judges in a closed session, without the assistance of a lawyer, a consular representative or adequate translation facilities. They could not fully understand the proceedings, which were conducted in Arabic, and were unable to fully understand whether the hearing concerned the prolongation of their detention or constituted their trial. According to the information received, if the policeman killed on 29 September 2002 had children (which is unknown), and if the 13 Nigerians are sentenced to death, they will remain in prison until these children reach the age of 18, when they can accept or reject the payment of diya (blood money) in place of the death penalty. Otherwise, the 13 would be at risk of imminent execution.

Serbia and Montenegro

1445. By letter dated 6 August 2004, the Special Rapporteur notified the Government that he has received allegations concerning:

1446. **Mirko Vuletic**, 23 years old, Cetinje, Montenegro. On 11 July 2003, he attempted to intervene in an altercation with three policemen of the Police Department in Cetinje (the names of whom are known to the Special Rapporteur). A short while later, Mirko Vuletic was getting into his car when a police car with the three policemen arrived. He was dragged out of his car but manage to escape to a nearby building. He was later found, punched and kicked, and dragged to the police car. On the way to the station one of the policemen punched him repeatedly in the stomach. The beatings continued in the stairwell of the police station and in an office. He was beaten on the chest, head and jaw. When Mirko Vuletic fell to the floor they continued to kick him all over the body and in the head. The physical abuse ceased when the police chief ordered them to stop. When Mirko Vuletic started vomiting and bleeding from the head, the head of Criminal Investigations ordered the policemen to take him to the hospital. Following his release from hospital, Mirko Vuletic was sent home. The medical certificate issued by the hospital stated that he suffered physical injuries consistent with being struck with a blunt instrument, and being punched and kicked.

1447. **Milan Janoševic**, age 23, and **Dragan Jelenkovic**, age 24, Raška, Sandžak region. On 9 June 2003 about midnight, Milan Janoševic was approached by two Raška policemen (whose names are know to the Special Rapporteur) outside a cafe and told to turn off his car stereo, present his ID card and accompany them. When he refused, he was struck on the forehead with a nightstick. Dragan Jelenkovic, who witnessed the beating, was hit twice on the head with a nightstick. Milan Janoševic escaped and hid under a bridge but was later found. The policemen ordered him to lie down and put his hands on his back, and held him down with their knees while they handcuffed him. Handcuffed, Milan Janoševic was hit on his back and chest with their nightstick then thrown into the stream. A policeman grabbed the back of his neck and held his head under water. He was then thrown against the retaining wall, and injured by steel reinforcement rods, which were sticking out. Milan Janoševic was taken back to the car and was hit at least 20 times, and thrown on the ground four times. He was held at the local police station for several hours, during which time he was taken twice to the Medical Centre for an anti-tetanus shot and to have his injuries treated. He was interviewed by the station commander in the presence of one of the policemen, who said to Milan Janoševic, "You owe me a drink for saving you." The station commander later excused his officers' conduct because they had been transferred from Kosovo. When Dragan Jelenkovic went to the police station to complain, he met Milan Janoševic's father there, and both men insisted that the two officers be subjected to a blood alcohol test. The Kraljevo Police Chief called Dragan Jelenkovic's father the next day and apologized, saying that the Raška policeman admitted that he struck him in a moment of anger. Milan Janoševic and Dragan Jelenkovic have medical certificates and photographs of their injuries. A criminal complaint was previously filed against one of the policemen.

1448. **Munir Muric**, Tutin, Serbia. On 18 August 2003 around 7 p.m., on his way home from the market in Tutin, he stopped to urinate behind a police checkpoint hut. Munir Muric was stopped by a policeman, who threatened him, saying "Do you know I have the right to beat you up?" Muric responded that he had no such right. The policeman grabbed and twisted

his arm behind his back and punched him. He led Munir Muric into the hut, swore at him and threatened him with imprisonment. Inside the hut, Munir Muric was ordered to face the wall, while the policeman hit him in the left leg and thigh and repeatedly punched him in his sides. The beating stopped when another policeman entered the room. The unknown policeman removed the handcuffs but did not respond to Munir Muric's complaints. He has a medical certificate and photographs concerning the injuries he sustained.

1449. By letter dated 15 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1450. **Zoran Todorovic**, age 41, and **Danijela Bogojevic**, Kruševac. On the night of 22 January 2003, Zoran Todorovic was beaten and insulted and Danijela Bogojevic was sexually molested by a group of policemen, who forcibly entered their apartment without a warrant.

1451. **Bojan Stojanovic**. On 21 June 2003, Belgrade police raided a café in the Banovo Brdo area. When Bojan Stojanovic objected to the police action, he was hit in the throat, head and chest in the presence of a number of witnesses, and struck with truncheons after he fell to the ground. His lawyer took him for medical treatment. Following a complaint to the 29 November Street police station, the Second Municipal Public Prosecutor's Office did not take action.

1452. **Goran Petrovic**, aged 37, and **Igor Gajic**, aged 30, **Zoran Jotic**, aged 48, **Vladen Kojic**, and **Slavoljub Marinkovic**, all from Kruševac. On 14 March 2003, all five men were arrested in Kruševac in connection with a crackdown on organized crime, code-named Operation Sabre. Goran Petrovic and Igor Gajic, after 15 days in detention, were transferred to Cuprija Prison. They were held incommunicado until 13 May. During this time, they were tortured by police officers in an attempt to extract confessions. The officers at the Cuprija Prison took Goran Petrovic to a nearby forest, taped a bag over his head and beat him, injuring his spine. When his wife visited him on 13 May, she reported that he had difficulty walking. He was taken to a detention centre in Varvarin for ten days to recover before being returned to the Cuprija Prison. Igor Gajic suffered similar treatment. He had also been tortured with electric shocks to his body after being doused with water while a bag was taped over his head. It is reported that both men were brought before a judge in Kruševac in May 2003. Zoran Jotic was taken to Niš after 15 days, where he was held incommunicado until 15 May. He was beaten and a bag was taped over his head. He was pistol-whipped and subjected to mock executions. When his wife saw him for the first time on 15 May, when he was brought before a judge in Kruševac, she reported that he had bruises on his body and complained of headaches due to the beatings. Goran Petrovic, Igor Gajic, and Zoran Jotic were transferred to Belgrade after their initial hearings, but their families were not informed until after almost a week, when their lawyers were able to obtain this information. They are held in the Central Prison, Belgrade. It is reported that Vladen Kojic was bruised all over his body, and has difficulty walking as a result of the beatings he suffered after his arrest. Slavoljub Marinkovic's wife reported that when she saw him on 23 May 2003, he had lost 12,kg, his nose was broken, and his clothes were bloodied and torn. In the forest, he had been beaten with a bag covering his head, and forced to confess. Both men have reportedly attempted suicide following their treatment in custody.

1453. In connection with Operation Sabre, the Special Rapporteur has received further allegations, concerning:

1454. **Milan Sarajlic**, aged 44, Deputy Public Prosecutor of Serbia. On 19 March 2003, he was taken to the police station on 29 November Street, Belgrade. He was held incommunicado until 11 April. He was beaten over an extended period of time, electric shocks were applied to his temples, while a bag was taped over his head. He was taken on three occasions in the trunk of a car to an unknown location and subjected to mock executions by a firing squad. The interrogators threatened to kill his daughter. As a result of his treatment he lost 20kg, and he suffers from psychiatric problems.

1455. **Desimir Grbic**. On 11 April 2003, he was arrested on suspicion of arms trafficking. He was beaten by police officers immediately after his arrest, and taken to the police station on 29 November Street, Belgrade. He was held incommunicado for two months. He was tied to a radiator with a cloth sack tied over his head and punched and beaten with batons all over his body, and forced to confess.

1456. **Josip Kruškovic**, Sombor, Vojvodina. On 26 April 2003, he was arrested and taken to the Sombor police station. He was beaten, hooded, handcuffed, and kicked on his head and body over a two-day period. He was beaten on the soles of his feet and sustained a broken nose. He was released two months later.

1457. By letter dated 15 November 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning:

1458. **Dejan Petrovic**, aged 29, Belgrade. On 16 January 2002, he was arrested on suspicion of theft and spent the night in the lock-up in Božidara Adžije Street. At about 9 a.m. the next day, three police inspectors (whose names are known to the Special Rapporteur) brought him to his parents' apartment with a warrant to search his room. His father reported, "They brought Dejan in with his hands cuffed. His lips were blue, as if something wasn't right. I didn't notice any injuries on his face. However, Dejan didn't say a word the whole time." At noon that day, the police informed his parents that he had leapt from a second floor window and that he was in a coma at the Emergency Treatment Centre. He sustained a ruptured spleen and gall bladder, a damaged liver and pancreas, broken ribs, a fractured left femur, and a large haematoma on his head. He was in a coma for two weeks and died on 15 February. On 18 February, an autopsy was performed at the Institute of Forensic Medicine. The pathologists established that death was due to violence and caused by damage to vital brain centres and ensuing complications. They also found that the brain damage, fractures and other internal and external injuries sustained were due to blunt force trauma. A criminal complaint was first filed with the Third Municipal Prosecutor's Office and, in April 2002, with the District Prosecutor's Office. However, the prosecutor has not asked for an investigation, nor has he dismissed the complaint, which would have enabled the parents to proceed as private prosecutors. The medical records were transferred to the Belgrade Institute of Forensic Medicine on 12 September 2003 for an expert opinion on the injuries sustained.

Urgent appeals

1459. On 30 September 2004, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders regarding Mrs. **Svetlana Djordjevic**. According to the allegations received, in July 2003 Svetlana Djordjevic published a book entitled *Testimonies about Kosovo,* in which she reportedly describes human rights violations such as evictions, mistreatment and killing of Albanian civilians perpetrated by the police in Kosovo in 1998 and 1999, till the end of the NATO intervention. The book allegedly gives the full names of police officers, commanders and citizens who took part in human rights violations in the province. Immediately after the publication of this book, Svetlana Djordjevic began receiving anonymous phone calls at her home and threatening notes stuck on the door of her flat in Vranje. On 27 June 2004, she was the victim of a physical attack. An unidentified man burst into her apartment, grabbed her mouth and injected her in the left upper arm with an unidentified liquid. While she was still conscious, he ordered her to go out publicly on television and deny everything she had written. He then left, leaving a red rose in her hand, a sign which suggest that the threats may come from members of the now disbanded Special Operation Unit, which is described in the book. Svetlana Djordjevic was found an hour after by her husband and transferred to hospital. An investigation was launched, but no information has yet been revealed. Mrs. Djordjevic was then granted a special protection from the police. However, the policemen who are supposed to ensure her protection are reported to be the ones that she denounces in her book. Moreover, she and the people with whom she lived have recently become subjected to repeated acts of harassment from the police. As a consequence, she is now reported to live in hiding.

Sierra Leone

Follow-up to previously transmitted communications

1460. By letter dated 8 April 2004, the Government provided information concerning **Solomon Y. B. Rogers** (E/CN.4/2003/68/Add.1, para. 1257). The Government indicated that its response is reflected in the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2004/7/Add.1, para. 523). Solomon Y. B. Rogers' death was caused by a stroke due to severe hypertension.

Spain

1461. By letter dated 15 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1462. **Stefan Šarkozi** and his children **O. Š.**, **J. Š.**, **A. Š.** and **R. Š.**; and **Marian Rehak** and **Roman Malik**, members of the Roma community, Záhorská Ves village. On 3 July 2004 around midday, the mayor of the village accompanied by four security guards arrived to evict the family from a plot of land. The guards chased the family members out and beat them with baseball bats. Stefan Šarkozi sustained a broken arm; O. Š. sustained injuries to her legs; J. Š. sustained injuries to his face and chest; A. Š. was thrown into the river; R. Š. was beaten, as was Marian Rehak. The incident was reported to the Malacky District Police Department. They were treated at a local hospital for their injuries. The mayor announced on the local

radio station that night that he would "finish" all of the Gypsies in the village that night. On 6 September, security guards forced Roman Malik, a relative of the Šarkozi family, into a car and drove him to a wooded area 20km outside of Záhorská Ves, where they beat him with truncheons. A complaint was filed with the General Prosecutor's Office in this regard. On 29 September 2004 at 10.30 a.m., twelve members of the family was left homeless when their home was demolished on the orders of the mayor.

Follow-up to previously transmitted communications

1463. By letter dated 29 January 2004, the Government provided information concerning a **Roma settlement in Plavecký Štvrtok** (E/CN.4/2004/56/Add.1, para. 1444). The Government informed that on 5 September 2000, based on an anonymous telephone tip-off, two patrolmen from the Supava District Police Department were sent to the village of Plaveck ý Štvrtok because Juraj Biháry against whom an order of committal to prison was issued had reportedly been sighted there, near the "U Chmelu" food store. On the way to Plavecký Štvrtok, the patrolmen stopped by to pick up another member of the Supava District Police Department, who knew Juraj Biháry. Several persons of Roma origin were present at the reported location. After identifying him, the policemen asked Juraj Biháry to accompany them to the police station. He actively resisted and attacked the policemen with a broken bottle. Other persons present physically prevented the policemen from detaining Juraj Biháry, who used the situation to flee. On 19 September, a police operation to apprehend persons subject to committal orders and arrest warrants was conducted. With a view to the possibility that these individuals could be armed and provide resistance, and with the approval of the Regional Police Force Directorate, 23 policemen participated. During the operation, Juraj Biháry attempted to flee from the settlement to a forest. A policeman ordered him to stop, and when he didn't, threatened to shoot and fired a warning shot in the air, in accordance with section 60 of the National Council of the Slovak Republic Act No. 171/1993 Coll. on the Police Force (as amended). Juraj Biháry eventually heeded and lay down, at which time the policeman was attacked by unknown persons from behind, and Juraj Biháry attacked the policeman with a 40cm knife. He was finally detained by other policemen. Jozef Biháry and František Jankovic were also detained by policemen, who used restraints, such as hand holds, punches and self-defence kicks, hancuffs and means of eliminating resistance or averting attack under sections 51 and 52 of the 1993 Act. According to the official records, the use of the restraints did not cause injury to any of the persons against whom they were used. Police supervisors assessed the use of the means of restraint as justified. After the detention, Juraj Biháry was taken to the Malacky Hospital for medical treatment. The doctor identified contusions on his head, thorax and limbs and found minor abrasions and haematoma on his body, with expected treatment of five to six days. Regarding his injuries, Juraj Biháry stated at the examination that an iron lintel fell on his head and arm while carrying out building work, and only felt pain in the places of contact with the lintel. On 5 March 2001, the three men were found guilty in Malacky district court of offences related to the above police operations. A case was opened into allegations of abuse of public authority under section 158 of the Penal Code by the police authority of the Bratislava Inspection Department of the Police Force Inspection Service Office. No violations in the police action of 19 September 2000 was found and the case was withdrawn under section 159 of the Code of Criminal Procedure.

Spain

1464. Por carta de fecha 14 de septiembre de 2004, el Relator Especial notificó al Gobierno que había recibido las siguientes alegaciones. El Gobierno respondió a dicha comunicación por carta fecha 10 de diciembre de 2004.

1465. **Mikel Aiensa Laborda**, un hombre de 28 años, habría sido detenido por agentes de la Guardia Civil el 21 de febrero de 2002 en Pamplona. Tras permanecer cinco días incomunicado, habría sido presentado ante el Juzgado Central de Instrucción número 1, en Madrid. Durante estos cinco días, habría sido golpeado repetidas veces. También habría recibido patadas y puñetazos. Durante los interrogatorios, los agentes habrían proferido amenazas contra su novia, familia y amigos. A lo largo de su detención habría escuchado gritos y gente llorando. Cuando vio al médico forense, le habría indicado que tenía dolor en la cabeza y el cuello y éste le habría dicho que tenía una contractura. Después de estos hechos, Mikel Aiensa Laborda habría interpuesto una denuncia por el trato recibido en custodia de la Guardia Civil. Actualmente se encontraría en prisión.

1466. El Gobierno informó de que no conocía de la existencia de denuncia interpuesta contra los funcionarios públicos encargados de la detención y custodia del afectado. Por lo tanto no se había iniciado ninguna acción de carácter disciplinario o penal que investigara la veracidad del presunto delito de tortura o malos tratos del que habría sido objeto el afectado durante los cinco días de incomunicación que siguieron a su detención. El informe elaborado por el médico forense de la Audiencia Nacional fue remitido al Magistrado competente y estaría amparado por el secreto profesional.

1467. **Jon Otegi Eraso**, un hombre de 24 años, habría sido detenido por agentes de la Guardia Civil el 8 de octubre de 2002 en Leaburua. Habría sido mantenido tres días en régimen de incomunicación y luego presentado ante el Juzgado Central de Instrucción número 4, en Madrid. En las dependencias de la Guardia Civil, habría sido golpeado varias veces, sobre todo en la cabeza, la espalda y las costillas, y amenazado con aplicarle electrodos y la bolsa. Se alega que mientras lo sometían a tocamientos, habría sido amenazado con ser violado. En el calabozo, habría sido forzado a permanecer de pie de cara a una pared o a mantener posturas extenuantes. Debido a una salmonelosis, habría sido llevado a un hospital, donde habría permanecido una noche. En el hospital también habría sido golpeado por guardias civiles que permanecieron alrededor de su cama. Después de estos hechos, Jon Otegi Eraso habría interpuesto una denuncia por el trato recibido en custodia de la Guardia Civil. Actualmente se encontraría en prisión.

1468. **Harkaitz Melchor Hoces**, un hombre de 24 años, habría sido detenido por agentes de la Guardia Civil el 15 de octubre de 2002 en Irún. Tras permanecer tres días en régimen de incomunicación, habría sido presentado ante el Juzgado Central de Instrucción número 5, en Madrid. Durante su detención, le habrían puesto un buzo, que los agentes llamaban “el traje del astronauta”, le habrían precintado el cuerpo y la cabeza y colocado una especie de corsé que le llegaba hasta la nariz. Le habrían obligado a tumbarse en un colchón y un guardia civil se habría sentado sobre su pecho. En esta postura, le habrían colocado repetidas veces una bolsa en la cabeza, mientras lo golpeaban en los testículos. Más tarde, lo habrían desnudado y encerrado en una sala donde la temperatura era muy baja. Los agentes se habrían referido a

este lugar como “la nevera”. Seguidamente habría sido sometido de nuevo al “traje del astronauta” y a las bolsas. Se alega que cuando finalmente le quitaron la cinta adhesiva, no pudo mover los brazos, manos y piernas durante un rato y tenía fuertes dolores e hinchazones en distintas partes del cuerpo. Después de estos hechos, Harkaitz Melchor Hoces habría interpuesto una denuncia por el trato recibido en custodia de la Guardia Civil. Actualmente se encontraría en prisión.

1469. El Gobierno confirmó que había sido interpuesta una denuncia ante la Autoridad Judicial competente, la cual dio inicio a una causa penal que finalmente fue sobreseída y por tanto, concluida mediante el archivo de la causa, en relación con el caso de los Sres. Harkaitz Melchor Hoces y Jon Otegi Eraso. El Gobierno defendió la legalidad de las diligencias practicadas en la detención, incomunicación y posterior puesta a disposición del Juzgado Central de Instrucción de la Audiencia Nacional de los Sres. Harkaitz Melchor y Jon Otegi. La Administración no habría advertido el menor indicio de actuación indebida en el comportamiento de los funcionarios públicos que participaron en la detención y custodia del denunciante y los hechos alegados no habrían podido ser probados en el proceso penal. Tampoco consta que hubiera sido interpuesto recurso alguno contra la decisión de sobreseimiento adoptada. El Gobierno informó de que el detenido fue reconocido y atendido por el médico forense de la Audiencia Nacional, y que el informe elaborado a este respecto fue remitido al Magistrado competente y estaría amparado por el secreto profesional.

1470. **Aingeru Cardaño Reoyo**, un hombre de 24 años, habría sido detenido por agentes de la Ertzaintza el 17 de junio de 2003 en Bilbao. Habría permanecido cuatro días detenido en régimen de incomunicación y habría sido posteriormente presentado ante el Juzgado Central de Instrucción número 1, en Madrid. Durante su detención habría sido obligado a mantener posturas forzadas, tales como 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 llamaban esta postura, “la postura de Spiderman”. Mientras estaba en esta postura, los agentes le habrían ido abriendo más las piernas con patadas en los pies hasta que se caía al suelo. Ello le habría provocado fuertes dolores en la espalda y las piernas. Se alega igualmente que un agente habría intentado asfixiarle cogiéndole del cuello. Seguidamente le habría tirado al suelo y otros agentes le habrían torcido las piernas. En otra ocasión, los agentes le habrían tocado las nalgas y los genitales haciendo comentarios humillantes e insultándole. También habrían intentado meterle la pata de una silla en el ano, sin llegar a penetrarle. Habría sido zarandeado de un lado al otro de la sala, cayéndose varias veces. Durante otro interrogatorio, habría sido inmovilizado, le habrían sujetado la cabeza hacia atrás y le habrían tapado la nariz. En esta postura, le habrían introducido agua en la boca hasta que estuviera a punto de ahogarse. De acuerdo con la información recibida, mientras era interrogado o sujeto a estos tratos, habría tenido que escuchar los gritos o lloros de otras personas detenidas e interrogadas. El Relator Especial también ha sido informado de que mientras estaba en dependencias policiales, habría solicitado ser reconocido por un médico. Durante su entrevista con el médico, no le habrían quitado las esposas y el médico se habría negado a reconocerle. Actualmente, Aingeru Cardaño Reoyo se encontraría en prisión. Desde su estancia en dependencias policiales y debido al trato supuestamente recibido, no habría podido realizar ejercicios físicos ni permanecer en determinadas posturas. Se habría presentado una denuncia en relación con estas alegaciones.

1471. **Jose Miguel Etxeandia Meabe**, un hombre de 45 años, habría sido entregado a la Guardia Civil por las autoridades mexicanas el 5 de julio de 2003. Habría permanecido cuatro días en régimen de incomunicación antes de ser presentado ante el Juzgado Central de Instrucción número 6, en Madrid. Durante estos días en el cuartel de la Guardia Civil habría sido golpeado repetidas veces, incluso con un listín de teléfonos o periódicos enrollados. Los agentes le habrían golpeado en la cara con las manos abiertas y llevando puestos guantes de látex. Se alega igualmente que le habrían colocado bolsas en la cabeza después de envolver su cuerpo con una manta, provocándole sensaciones de calor y asfixia. Habría sido obligado a permanecer en posturas forzadas y a realizar flexiones. En otra ocasión, lo habrían desnudado y obligado a permanecer de pie con los brazos levantados. Estando desnudo, lo habrían amenazado con introducirle un palo en el ano y lo habrían agarrado del pene. También lo habrían amenazado con electrodos. Habría permanecido la mayor parte del tiempo con un antifaz puesto, con los ojos cerrados, mirando al suelo o contra una pared. Habría sufrido dolores en la parte atrás de la cabeza. Se habría presentado una denuncia por el trato recibido en las dependencias de la Guardia Civil. Actualmente se encontraría en prisión.

1472. El Gobierno confirmó la existencia de una denuncia realizada en contra de los funcionarios públicos encargados de su detención y custodia, que dio inicio a una causa penal que en la actualidad se encontraría en su fase investigativa. La Administración no habría advertido el menor indicio de actuación indebida en el comportamiento de los funcionarios públicos que hubiera podido dar lugar a un eventual expediente disciplinario. El informe elaborado por el médico forense de la Audiencia Nacional fue remitido al Magistrado competente y estaría amparado por el secreto profesional.

1473. **Joseba Compains Silva** y **Eneko Compains Silva**, dos hermanos trillizos de 21 años, habrían sido detenidos por agentes de la Policía Nacional el 8 de octubre de 2003 en Pamplona. Habrían permanecido cuatro días detenidos en régimen de incomunicación y posteriormente habrían sido presentados ante el Juzgado Central de Instrucción número 5, en Madrid. Durante su detención en dependencias policiales, Joseba Compains Silva habría sido obligado a realizar ejercicios físicos hasta extenuación. Mientras hacía flexiones, le habrían golpeado con un objeto de plástico en el estómago. Más tarde, habría tenido que tocar el suelo con las manos y luego el techo, mientras contaba. También habría sido obligado a mantenerse en posturas forzadas, como agachado sin poder poner los talones al suelo, o de pie con los pies separados, las manos en una pared y la cabeza encima de las manos para luego ponerlas en la espalda y sostener todo el peso del cuerpo con la cabeza. En otra ocasión, habría recibido golpes en el pecho, que le provocaron un moratón. Habría sido objeto de varias amenazas, incluso de carácter sexual. Por su parte, Eneko Compains Silva habría recibido golpes en la cara, la espalda y el pecho. Habría sido obligado a mantener posturas forzadas hasta extenuación, con las rodillas un poco flexionadas y los brazos extendidos. Habría sido amenazado con una bolsa de plástico colocada en la cabeza y con cables colocados en la espalda y el cuello. En su celda, habría tenido que permanecer de pie de cara a una pared, con la luz casi permanentemente encendida. En algunas ocasiones los agentes la apagaban y encendían intermitentemente. Durante los interrogatorios de ambos hermanos, los agentes habrían hecho referencias vejatorias a su madre, quien murió de un cáncer y les dijeron que su padre también estaba enfermo y se moriría pronto. Se habría interpuesto una denuncia por el trato supuestamente recibido durante la detención de los dos hermanos.

1474. **Jordi Purtí Planell**, un hombre de 25 años, habría sido detenido por agentes de la Policía Nacional en Pamplona, el 8 de octubre de 2003. Habría permanecido cuatro días detenido en régimen de incomunicación y posteriormente presentado ante el Juzgado Central de Instrucción número 5, en Madrid. Seguidamente, habría sido trasladado a prisión. Durante su estancia en dependencias policiales, habría sido forzado a permanecer de pie con las rodillas flexionadas o a estar de rodillas en el suelo con los brazos en cruz mientras tenía que abrir y cerrar las manos o sujetar una botella llena de agua con cada mano. Le habrían dado sopapos en la boca y golpes con las manos y con un listín de teléfonos. Los agentes habrían amenazado con golpearle los testículos con un palo que habrían metido entre sus piernas. Una persona encapuchada le habría apuntado con una pistola y amenazado de muerte. Esta persona habría apretado el gatillo simulando una ejecución. Seguidamente, habría sido conducido al calabozo, donde habría tenido que mantenerse de pie. En uno de los interrogatorios, le habrían quitado la camiseta y le habrían enseñado un aparato parecido a una batería de coche y un contador de voltaje. Le habrían colocado unos cables en las orejas y en la espalda y amenazado con someterle a descargas eléctricas. En otras ocasiones, le habrían colocado una bolsa en la cabeza tapándole la boca con las manos. También habría sido levantado en el aire sujetado por la zona genital. Un agente habría pasado una porra con corriente eléctrica a escasos centímetros del cuerpo y la cara de Jordi Purti Planell, incluso cuando tenía una bolsa puesta en la cabeza. También habría sido sometido a vejaciones de carácter sexual. Se habría presentado una denuncia en relación con estas alegaciones. Se alega que el juez instructor habría archivado la causa basándose exclusivamente en informes médicos forenses y sin tener en cuenta la declaración del detenido.

1475. El Gobierno confirmó su detención e incomunicación en dependencias policiales en las fechas 8, 9 y 10 de octubre de 2003, en relación con el caso de los Sres. Joseba Compains Silva, Eneko Compains Silva y Jordi Purti Planell. Defendió la legalidad de las diligencias policiales practicadas y negó la existencia de torturas o malos tratos ejercidos por funcionarios públicos en contra de los detenidos. Aclaró que durante el periodo de incomunicación éstos fueron debidamente informados de la causa por la cual se encontraban bajo arresto y de los derechos constitucionales que los amparaban ante tal situación. Los detenidos fueron puestos posteriormente a disposición de la Audiencia Nacional en fecha 11 de octubre de 2003. Los derechos fundamentales de los detenidos habrían sido respetados, bajo estricto control judicial y con intervención directa del médico forense. Los tres se negaron a prestar declaración en presencia del abogado de oficio y sólo lo habrían hecho ante el Magistrado-Juez de la Audiencia Nacional. Respecto a las denuncias tramitadas por el Juez Instructor correspondiente, en el caso de los hermanos Compains Silva se desconocía la situación actual del trámite y en relación con Jordi Purti el Gobierno precisó que el caso por presunto delito de torturas fue archivado.

1476. **Garikoitz Arruarte Santacruz**, un hombre de 25 años, habría sido detenido el 24 de diciembre de 2003 en San Sebastián por agentes de la Policía Nacional. Habría permanecido cinco días en régimen de incomunicación antes de ser conducido ante el Juzgado Central de Instrucción número 1, en Madrid. Posteriormente, habría sido trasladado a prisión. Durante su detención, le habrían tirado al suelo y golpeado, sobre todo en las piernas y la cabeza. También habría sido amenazado repetidas veces con pistolas en la boca, los oídos y los ojos. Un agente se habría puesto de pie sobre su cabeza. En una ocasión, se habría mareado. Se habría dado un fuerte golpe contra una pared y se habría caído al suelo. Habría perdido el conocimiento. Al recomponerse, un agente le habría tirado del pelo y golpeado

contra el suelo. Habría sido examinado en un centro de salud en presencia de una agente de la policía. El médico habría recomendado que le llevaran a un hospital. Le habrían puesto un collarín. Se alega que a causa de los golpes recibidos, especialmente en el momento de la detención, un esguince que había tenido anteriormente en el cuello se habría deteriorado. Actualmente, todavía padecería dolores y molestias en la zona del cuello y las cervicales. Se habría presentado una denuncia en relación con estos hechos.

1477. En relación con el caso de los Sres. Garikoitz Arruarte Santacruz y Gorka Loran Lafourcade, el Gobierno señaló que no existía constancia de que ninguno de los detenidos hubiera presentado denuncia, hecho o manifestación alguna ni ante la Policía ni ante la Autoridad Judicial competente por presuntos malos tratos. Precisó además que los detenidos fueron informados de sus derechos constitucionales, visitados por la Comisión Judicial y asistidos por el Médico Forense quien extendió los oportunos partes facultativos adjuntados a las Diligencias Instruidas. Durante el periodo de incomunicación habría sido recibida declaración en presencia del letrado de turno de oficio, en cumplimiento de la legalidad vigente. En la actualidad los informes emitidos por la Comisión Judicial y el médico forense de la Audiencia Nacional obrarían en poder del Juzgado Central de Instrucción Número 1 y habrían sido incorporados a las Diligencias Previas de dicho Juzgado.

1478. Por carta de fecha 14 de septiembre de 2004, el Relator Especial, juntamente con la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, notificó al Gobierno que recibido información sobre las alegaciones siguientes:

1479. **Aiala Manrike Arbeo**, una mujer 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 Aiala Marike Arbeo. Sin embargo, se alega que después se archivó la causa sin que se practicara ninguna otra de las pruebas solicitadas.

1480. Por carta fecha 10 de diciembre de 2004, el Gobierno aclaró que no se había interpuesto denuncia alguna ni ante la policía ni ante la autoridad judicial competente por presuntos malos tratos. El Gobierno confirmó su detención e incomunicación por un periodo de cuatro días y defendió la legalidad de las diligencias policiales y judiciales practicadas. La detenida habría sido debidamente informada del motivo de arresto así como de sus derechos constitucionales, asistida por un letrado de oficio y atendida directamente por el médico forense de la Audiencia Nacional. Éste último emitió los informes correspondientes que en la

actualidad obrarían en poder del Juzgado Central de Instrucción Número 5 e incorporados a las Diligencias Previas de dicho Juzgado.

1481. **Naiara Mallabia Sanchez**, una mujer de 22 años, habría sido detenida por agentes de la Ertzaintza (policía de la Comunidad Autónoma Vasca) 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 cómo se llevaban a su hermano mellizo, Unai Mallabia Sanchez, 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.

1482. **Roberto Saiz Olmos**, un hombre de 28 años, y su compañera, **Ana Lopez Barrio**, 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, Ana Lopez Barrio 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, Roberto Saiz Olmos habría sido obligado a permanecer en la "postura 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. Roberto Saiz Olmos también habría denunciado el trato recibido durante su detención.

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1483. By letter dated 14 July 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning:

1484. **Dehiwatte Gedera Jayathilaka**, a 45-year-old man from Golangala Village, Egodamulla, Devilla, Yatawatte. He was arrested on 9 March 2004 by police officers from Yatawatte Police Security led by a sub-inspector (whose name is known to the Special Rapporteurs), and was accused of possessing illegal liquor. He was taken to Mahawela Police Station. Some hours later, his son went to the police station to pay the bail. Dehiwatte Gedera Jayathilaka told his son that he had been severely assaulted while in custody and that he was in severe pain. He died some hours after his release. His body was taken to Kandy Hospital, where the Judicial Medical Officer certified the presence of broken ribs and bruises. A complaint was made at the Mahawela Police Station but it is thought that the statement was not properly recorded.

1485. **Muthuthanthrige Chamal Ranjith Corrad**, a 30-year-old saw mill worker from Egodauyana, Moratuwa. He was arrested 17 April 2004 on suspicion of theft on and taken to Modera (Moratatuwa) Police Post where he was severely tortured before being handed over to Moratuwa Police Station, where he was again beaten and kicked. On 18 April 2004, he was brought before a judge and transferred to Welikada Prison, where he was assaulted again. He did not receive medical treatment. He was released on bail on 19 April 2004 in critical condition. His relatives immediately took him to Panadura Government Hospital, but he died on the way. The following day an autopsy was performed at the hospital, which revealed that he died from injuries resulting from the assaults. A man named **Dinesh** who was taken to Mortuwa Police Station at the same time as Muthuthanthrige Chamal Ranjith Corrad reportedly witnessed the assaults and was himself subjected to a similar treatment.

1486. **Senarath Hettiarchchilage Abeysinghe**, a 39-year-old constable at the Trincomalee Police Station. He told the National Human Rights Commission that he had been tortured by his colleagues at Trincomalee Police Station and subsequently admitted to a hospital for treatment in April 2004. He died on 17 May 2004. Although he apparently died from natural causes, it is alleged that the circumstances of his death were suspicious. He was buried without an autopsy. On 23 June 2004, a Trincomalee judge ordered an exhumatiom in order to conducting a post-mortem.

1487. By letter dated 15 July 2004, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government provided information by letter dated 26 November 2004:

1488. **Kurukulasuriya Pradeep Niranjan**, a 30-year-old resident of Negombo Lagoon. He was arrested by the police on 13 May 2001 in the context of a murder investigation. He was taken to Negombo Police Station, where his hands and fingers were reportedly mutilated.

He was hung upside down with his legs tied together. While in this position, he was reportedly beaten with cricket wickets on his back, legs and soles of the feet by four police officers (whose names are known to the Special Rapporteur). The police officers allegedly acted under the supervision of a police inspector (whose name is also known to the Special Rapporteur). He was later taken to Negombo Remand Prison, where he was reportedly beaten while restrained naked on a table. He was taken to a court and a magistrate recorded his statement. The Central Intelligence Bureau (CIB) subsequently took over the investigation and he was taken to Police Headquarters in Colombo, where his statement was recorded again. He was declared innocent and released on 21 February 2003.

1489. The Government informed that investigations by the Special Investigations Unit (SIU) are in progress. The identities of the perpetrators have not yet been confirmed. To date the outcome of the medical examinations are not available. The Attorney General is the officer responsible for prosecuting the perpetrators. A judicial authority decides if compensation to the victim or his family should be provided. Imposition of penal or disciplinary sanctions will be decided on the completion of the inquiry.

1490. **Kebbeduwa Gamage Prabhath Neel Chaminda**, a three-wheeler driver, aged 28. He was taken to Kelaniya Police Station on 1 December 2002. In the office of the Officer in Charge (OIC), he was handcuffed, pushed on the ground and severely kicked, especially in the face. The OIC stepped on his back, which resulted in spinal injuries. While being interrogated, needles were stuck under his nails. When he was brought before a judge on 2 December 2002, the latter noted the prisoner's poor physical condition and ordered that he be given medical treatment. He was charged with three counts of burglary and remanded to prison. His relatives complained to the National Human Rights Commission. However, they were threatened by the OIC, who told them that the whole family would be eliminated if they approached human rights organizations.

1491. The Government informed that investigations by the SIU are in progress. An inspector was identified by the victim as the perpetrator. The medical examination indicated non-grievous contusions caused by a blunt weapon.

1492. **W. M. S. P. W.**, a 7-year-old boy from Moregollagame. His mother was ordered by the police to bring him and his sister to Polpithigame Police Station on 30 July 2003, in connection with a robbery. At the police station, a constable questioned the two children for a whole morning. Later the boy told his mother that he had been beaten and threatened by the OIC. In the afternoon, a 13-year-old boy was arrested and W. M. S. P. W.'s sister was released. He and the other boy were locked in a cell. The next morning, their relatives again went to the police station, where they were told that the two boys would be released if they paid for the stolen goods, which they refused to do. Following the intervention of a lawyer, the OIC agreed to bring the two boys before the Mahava magistrate, who ordered their release on bail.

1493. The Government informed that investigations by the SIU are in progress. The identity of the perpetrator has not been confirmed. To date the outcome of the medical examinations are not available.

1494. **Mahadura Pandula Sri Tharminda**, a retail fruit seller. He was arrested on 11 August 2003 by police officers from Kandi Police Station and subjected to severe torture. A

case against the responsible police officers was filed at the Supreme Court. On 2 November 2003, a police officer warned him that he would be killed or implicated in a drugs or bomb case if he did not withdraw the complaint. These threats allegedly took place at Kandy Central Market. A complaint regarding this incident was lodged with the Human Rights Commission Office in Kandy. On 10 November 2003, the same police officer threatened him again. When Mahadura Pandula Sri Tharminda still refused to withdraw the complaint, he was beaten by the police officer and subsequently taken to Kandi Police Station, where he was assaulted again. He was accused of possessing a bomb and forced to sign a confession that had been prepared by the police. On the following day, he was brought before a judge, who ordered that he be produced before a court on 24 November 2003. While in detention at Kandy Remand Prison, he began to bleed from the nose and mouth and to urinate blood. He was admitted in critical condition to Kandy General Hospital on 15 November 2003 and underwent neurosurgery.

1495. The Government informed that investigations by the SIU are in progress. A sub-inspector of the Kandy Police was identified by the victim as the perpetrator. The prison doctor reported contusions on the victim's left eye and on the left side of the chest. The Medical Officer from the General Hospital, Kandy, reported a fracture contusion, caused by a blunt weapon, and of a grievous nature. A statement of the suspect is to be recorded.

1496. **Conganige Pradeep Surendra**, a 29-year-old mechanic, and **Christopher Junius Lafaber**, a 23-year-old hairdresser. They were arrested without a warrant by four police officers from Mutwal Police Station on 5 September 2003, after they complained that two drunk police officers had created a disturbance at their stand during a musical show at St John's School playground. On their way to Mutwal Police Station, they were beaten and kicked until they fell down. Conganige Pradeep Surendra was beaten by a sub-inspector (whose name is known to the Special Rapporteur) with a pistol, resulting in a broken nose. They were later taken to the government medical officer in Ragama and to the National Hospital in Colombo. Despite doctors' advice that Conganige Pradeep Surendra should be hospitalized, both men were taken back to Mutwal Police Station. Their relatives were told that they were not being held there. They were released on bail on the following day. A complaint was filed on this case and on 24 September 2003 the Assistant Superintendent of the Police in charge of the area initiated an inquiry.

1497. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have not yet been confirmed. To date the outcome of the medical examinations are not available.

1498. **Raman Pillai Kesam Nayar Ashokan**, a 42-year-old resident of Kandy, working as a cashier in a wine store. He was arrested by police officers from Katugastota Police Station on 6 September 2003, after he was attacked by a group of unidentified individuals who stole money from the store. He was accused by the police and the owner of the store of having stolen the money himself. He was assaulted by police officers while being interrogated on this matter. He was later taken to Katugastota hospital, where a District Medical Officer said that a chemical like chloroform had been administrated to him and that he should be taken to another better-equipped hospital. However, he was taken back to Katugastota Police Station and put in a cell. His clothes were removed and he was blindfolded and ordered to lie down. It is reported that he was severely beaten with a pole, hit on the soles of his feet and

subsequently forced to jump up and down, as well as threatened with death. Later, he was again forced to lie down and three persons sat on his back while he was beaten again on the soles of his feet. He was later forced to sign a statement that he could not read and without being told what it contained. A magistrate ordered him remanded. He had difficulties in breathing and suffered from severe pain in his back and on the soles of his feet. He was released on bail on 16 September 2003 and received some medical treatment on 17 and 18 September. However, as his condition became critical, he was hospitalized at Peradeniya General Hospital on 22 September 2003. A complaint was filed with the police. While he was in the hospital, his family received threats from unknown persons, which are believed to have originated with the police.

1499. The Government informed that he submitted an affidavit dated 23 June 2004 [a copy of which was provided to the Special Rapporteur by letter dated 1 December 2004] to the SIU, which had commenced an investigation, affirming that he did not require any action against the police. The inquiry was suspended since the victim did not wish to cooperate with the investigators.

1500. **Dope Pathiranyalayage Lasantha Priyankara**, a 33- year-old day labourer. He went to Bentota Police Station on 22 October 2003 at the request of the police. Once there, he was directed by the OIC, whose name is known to the Special Rapporteur, and two other policemen to a back room of the police station without being given any explanation. In the room, he was beaten with a cricket bat, wooden clubs and a rubber hose. He was accused of a robbery. When he denied the charges, the OIC and others stripped him, tied his thumbs together and hung him up by his thumbs. While in this position he was beaten again with clubs, a rubber hose and a cricket bat, and forced to admit that he had broken into a house. He was threatened with death by the OIC, who nearly suffocated him by pressing his clothes to his face. Later, his arms were twisted behind his back, his thumbs tied together and he was hung up again. He was also stabbed in the stomach with a broken bottle, and fell unconscious. He was later taken to a rural hospital, administered a saline injection and brought back to the police station. Once there, he was ordered to go back home. His relatives immediately took him in a very critical condition to the Kalutara General Hospital.

1501. The Government informed that the Senior Superintendent of Police conducted an investigation. An inspector, officer-in-charge, and five policemen of the Bentota Police were identified as the perpetrators. The medical examinations indicated the victim suffered five injuries on his body, as well as a stab wound on the stomach. The Attorney General's opinion on whether to proceed with a prosecution is pending.

1502. **Bamunuarachchi Pathiranalage Sathkumara**. He was arrested in Derenagama village on 1 November 2003 by two plain-clothes police officers from the Kuliyapitiya Police Station. At the police station, he was interrogated about a burglary. He was severely beaten with a wooden pole and hit on the soles of his feet for ten minutes. He was then forced to jump up and down and to run. His hands were tied behind his back and he was hung from a beam in the ceiling by a nylon rope. He was then swung for 45 minutes, causing severe pain to shoulders and arms. While in police custody he was not given any food. Upon his release that same day, he was warned not to seek medical treatment in a hospital. However, he was hospitalized at Kuliyapitiya Hospital on 4 November 2003. The police working at the hospital took a statement from him about the treatment received in the police station. A Judicial

Medical Officer examined him. A complaint was made to the District Inspector General of Police of Kurunegala. The latter said that the case should be reported to the Assistant Superintendent of Police.

1503. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have not yet been confirmed. To date the outcome of the medical examinations are not available.

1504. **S. L. Kulatunga**. He was arrested with another person by the Nivithigala police on 10 November 2003. At the police station he was assaulted and suffered serious head injuries. On the following day he was admitted to the Watupityi Hospital and transferred to the General Hospital in Colombo, where he died on 12 November 2003. His death was followed by massive demonstrations in front of the police station and the General Hospital. The police authorities transferred four police officers and announced that an inquiry would be opened.

1505. The Government informed that investigations by the SIU are in progress. According to the statements received so far, when he was taken to the hospital to obtain a medical report, he jumped out of the jeep and sustained fatal head injuries. Report of the medical examination has been received. The relevant file will be forwarded to the Attorney General for consideration of criminal charges.

1506. **N. K.**, a 15-year-old boy. He was taken away from his home on 3 December 2003 by four police officers from Bulathsinhala Excise Station. He was interrogated about an illegal liquor seller and taken to a nearby forest where he was beaten, in particular on one of his hands. Later on, he and his father, who had also been taken to the forest, were forced to sign documents without being told what they contained. On the same day he was admitted to Pimbura Government Hospital, where he stayed for three days. When he was discharged, his hand had not yet healed. A complaint about this incident was lodged with the police.

1507. The Government informed that the Senior Superintendent of Police has completed his investigations. A statement of the victim was recorded. According to the report of the District Medical Officer, Nagoda, there were no injuries on the victim's body. Four persons of the Matugama Excise Station were identified as the perpetrators. The case was reported to the Magistrates' Court, Matugama, and the file has been forwarded to the Attorney General for his advice.

1508. **Shiron Jeewantha Pallekanda**, a 22-year-old resident of Pallewatta, Pitawala, Nawalapitiya. As requested by the police, he reported to Kekirawa Police Station on 7 December 2003. He was kept there for more than six hours and later taken to Katugastota Police Station and arrested on suspicion of stealing a vehicle. It is reported that he was severely beaten at the second police station. Although the law requires that arrested persons be produced before a judge within 24 hours, on 9 December 2003, his father was told by the police that Shiron Jeewantha Pallekanda could not be produced before a judge because the investigation had not yet been completed. When his father complained about the treatment received by his son while in custody, he was told that his son would be remanded if he came again to the police station.

1509. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have not yet been confirmed. To date the outcome of the medical examinations are not available.

1510. **Tennakoon Mudiyanselage Gunesekera**, a 39-year-old waiter. On 31 December 2003, he was severely beaten with wooden bats near the Chandrasena Hotel, Mahiyanganaya, by six policemen from the Mahiyanganaya Police Station. On 1 January 2004, he was found by his wife lying on the ground at a nearby market. When she went to the Mahiyanganaya Police Station to file a complaint, the police tried to bribe her not to make the incident public and refused to register the complaint. In the meantime, Tennakoon Mudiyanselage Gunesekera was hospitalized in Mahiyagama. He had difficulties breathing and sustained damage to his ribs. His statement about the incident was recorded by policemen at the request of the DMO.

1511. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have not yet been confirmed. To date the outcome of the medical examinations are not available.

1512. **Ashoka Pradeep Kumara**, aged 20, **S. P.**, aged 17, **R. M. Newton Ratnayaka**, aged 29, **W. P. Piyadasa**, aged 70, **Nilantha Kumar Rajapakse**, **Chaminda Sureshkumar**, **U. N. Jayantha Premial**, **Samurdhi Niyamaka**, and other residents of Baddegama village, Madahapola. On 31 December 2003, four police officers from Gokarella Police Station went to Baddegama village seeking information about illegal liquor. Ashoka Pradeep Kumara and S. P. were severely assaulted when they could not tell the police officers where to find the alcohol. Both were hospitalized in a rural hospital in Polgolla. S. P. was admitted to Kandy Hospital on 6 January 2004. His lower abdomen was injured and he sustained blows to the head causing dizziness. Following this incident, S. P.'s mother went to the Gokarella Police Station to lodge a complaint. There she found about 200 policemen and retired policemen having an end-of-year party. Upon being made aware of the complaint, the policemen rushed to the village and assaulted residents with poles and bicycle chains. R. M. Newton Ratnayaka, who is disabled, was thrown on the ground and policemen trampled on his stomach. He was arrested and sent to Kegalle Prison. W. P. Piyadasa, secretary of the organization the Disappeared Mothers and Children of Kurunegala District, was dragged on the ground and injured on his knees and hands. He also sustained wounds to his face. Nilantha Kumar Rajapakse and U. N. Jayantha Premlal were arrested and later admitted to Kegalle Prison Hospital. The arrested villagers were charged with obstructing the police from carrying out their duty to take action against illegal brewing. They were released on bail on 8 January 2004. A complaint about this incident was filed with the National Police Commission and the National Human Rights Commission. It is alleged that following reports about the incident in newspapers, the police threatened the villagers and the bus service to the village was stopped.

1513. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have been identified by the victims as the officer-in-charge and an inspector of the Gokeralla Police. Medical examination results are awaited from the Government Medical Officer of the Gokeralla Hospital.

1514. **D. G. Premathilaka**. He was severely beaten by police officers on 8 January 2004, allegedly because he gave up his illegal liquor business. He was hit on his head and face,

pulled into a van and driven away. On 9 January 2004, his wife was informed that he had been taken to Katugastota Police Station. His brother-in-law went there and found him lying on the floor of a cell, unable to stand. Upon his release that same day, D.G. Premathilaka was taken by his family to Kandy Public Hospital, where he was admitted. However, on 10 January 2004, he was forcibly discharged from the hospital on the grounds that he had no serious injuries, despite the wounds on his legs and arms and his claim that he was suffering from a severe headache and was unable to move his neck. He was later admitted to Peradeniya Hospital.

1515. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have not yet been confirmed. The medical legal report of the judicial medical officer indicated non-grievous abrasions caused by a blunt weapon on the victim's body.

1516. **Embathanthirige Amal Fernando**, aged 22, owner of a farm at Hirigalgodella, Nagahaduwa, Payagala. He was assaulted on 19 January 2004 at his farm by three individuals in plain clothes who allegedly identified themselves as police officers. They interrogated him about who produced illegal liquor in the area. When he did not reply, he was beaten on the hand, chest, legs, and back with wooden and iron bars. He was later put in a police vehicle and driven to four places in Maggona before being taken to Kalutara North Police Station. He was examined by a JMO who did not ask him any questions. He was released the same day. As a result of the treatment received, his right hand was swollen. He was admitted to Nagoda hospital, where he reported that he had been assaulted by the police. On the following day, a police officer attached to the Hospital Police Post took his statement. He was examined by a second JMO on 21 January 2004. His complaint was reportedly registered by the NHRC.

1517. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have not yet been confirmed. To date the outcome of the medical examinations are not available.

1518. **D.G. Athula Saman Kumara**, a businessman. He was arrested on 16 February 2004 and taken to Katugastota Police Station, Kandy. He was not informed about the reason for his arrest. When his wife visited him there, he was severely injured as a result of the treatment he received while in custody. She lodged a complaint with the NHRC and the NPC in Colombo.

1519. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have not yet been confirmed. To date the outcome of the medical examinations are not available.

1520. **W. R. Terrance Fernando**, a security guard and resident of Aluth Wewa, Polonnaruwa. He was arrested on 21 February 2004 after he was asked to report to the Kaduruwela Police Station. He was accused of a double murder that had taken place in the neighbourhood where he was on duty. He was beaten and locked in a cell. Later that day he was taken to the criminal branch of the police station and beaten again. He was subsequently taken to the police staff room, tied up and beaten for several hours by two inspectors, a constable, and another officer. On 23 February 2004, he was produced before a judge. His lawyer informed the court of the treatment he had received while in police custody and a complaint was recorded. The judge ordered W. R. Terrance Fernando to be remanded in

custody and to be given medical attention. He was sent to the General Hospital at Polonnaruwa, where the JMO documented his injuries on his right buttock, right and left feet and left leg and an abrasion along the pelvic area. As a result, he was initially unable to move and he suffered from these injuries throughout his time in remand prison. He was released on bail on 25 June 2004. Three days later, an assistant superintendent of police reported to him that the police had found the real culprit. In early July 2004, W. R. Terrasse Fernando asked for all charges against him to be formally withdrawn. He also filed a fundamental rights case with respect to his arrest and detention and the treatment he received while in custody.

1521. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have not yet been confirmed. To date the outcome of the medical examinations are not available.

1522. **Bellanavithanage Sanath Yasaratne**, a 22-year-old man from Gorakagahagodella, Bellana, Agalawatte. He was beaten with a baton by a police constable (whose name is known to the Special Rapporteur) on 22 February 2004, while he was in a shop. When he attempted to run away, other police officers who were also present shot him. The police left without helping him. He was later taken by his brother to Wattaewa Hospital and then transferred to Colombo General Hospital. He died on the way. A post-mortem was conducted by the JMO of Nagoda Hospital, which confirmed that his death was due to gunshot wounds.

1523. The Government informed that investigations by the Criminal Investigations Department have been completed. Judicial proceedings have been filed at the Magistrates' Court, Matugama against a police constable of the Baduraliya Police. A non-summary inquiry is in progress, and actions have been taken to initiate a disciplinary inquiry against the perpetrator. According to the report of the Judicial Medical Officer of the General Hospital, Kalutara, the cause of death was due to excessive bleeding following a bullet injury to the femoral artery of the left groin.

1524. **John Pollage Udays Saman Jayasuriya**, a driver from Urapola, Pilimathalawa, and his two sons, **U. G. Nandana Amarasooriya** and **Tilakasiri**. The men were stopped near the Giragama Tea Factory by police officers in plain clothes on 9 March 2004. John Pollage Udays Saman Jayasuriya was punched several times by the inspector of police of Peradeniya Police Station (whose name is known to the Special Rapporteur). He and U.G. Nandana Amarasooriya were pulled out of the car and hit on their faces with helmets; however, they manage to escape and returned home. As John Pollage Udays Saman Jayasuriya was about to go to the hospital to seek treatment for his injuries, the police officers arrived and attacked him again. He was beaten with a pipe in front of his wife and son, who was also attacked. John Pollage Udays Saman Jayasuriya and Tilakasiri were taken to Kadugannawa Police Station where the father was severely beaten with a pipe and kicked, injuring his left eye and head. He eventually fainted and was taken to Kadugannawa rural hospital. The following day he was transferred to Peradeniya Teaching Hospital and later to Kandy Hospital, where he underwent two operations. He was kept under close surveillance and chained to the bed. He was released on bail on 25 March 2004. His relatives reported the case to the President of Sri Lanka, the Inspector General of the Police, the District Inspector General of the Central Province Police, and the NPC in Colombo, and the Human Rights Commission in Kandy.

1525. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have not yet been confirmed. To date the outcome of the medical examinations are not available.

1526. **Halnetthige Nelsan Perera** and **Halnetthige Lenith Nuwan Peiris**. On 13 March 2004, they were assaulted by two members of the traffic branch of the Panadura Police (whose names are known to the Special Rapporteur). They were beaten on their faces, chests and hands. A police vehicle then approached with seven or eight police officers inside, including the OIC and a constable of the Pinwatta Police Post. The officers beat the two men with an iron bar. Halnetthige Nelsan Perera began to bleed from the head and collapsed. Halnetthige Lenith Nuwan Peiris was also injured, especially on the left leg. The police attempted to assault witnesses who tried to intervene. The two men were put in a police vehicle, taken away, and assaulted in the vehicle. They were brought to the Panadura Police Station, where they collapsed. They were later admitted to the Panadura Base Hospital. They were examined, given emergency treatment and admitted to Ward No. 1. Halnetthige Nelsan Perera was later transferred to Ward No. 24 and Halnetthige Lenith Nuwan Peiris to Ward No. 26. Halnetthige Nelsan Perera was discharged on 15 March 2004, with marks of injuries on his chest, back, head, face, hands, legs and elsewhere on his body. Halnetthige Lenith Nuwan Peiris was admitted to the National Hospital of Sri Lanka for special treatment and underwent surgery for various fractures. He was discharged on 31 March 2004 and was issued a Diagnosis Ticket indicating that he had a compound fracture of the left lower leg bone as a result of the assault. Halnetthige Nelsan Perera filed a petition with the Sri Lankan Supreme Court. Complaints have also been lodged with the NHRC, NPC, Inspector General of Police, Deputy Inspector General of Police (Colombo South), the Senior Superintendent and the Assistant Superintendent of Police (Panadura). An inquiry was begun in regard to his case on 23 March 2004.

1527. The Government informed that the SIU commenced an investigation, however the victims submitted affidavits dated 15 June 2004, affiriming that they did not wish to take any action against the police. Therefore the inquiry has been suspended since the victims do not wish to proceed with investigations.

1528. **Ukwatte Liyanege Don Sumith Chandana**, a 29-year-old tour guide at Robolgoda, Bentota. He was summoned to Bentota Police Station and went there on 16 April 2004, accompanied by his mother. His mother was asked to leave and he was detained. He was taken to a room near a kitchen and told to remove his clothes and lie on a bench, where he was restrained. He was beaten on the soles of the feet with a bar for approximately 30 minutes. He was released the following morning but ordered to return in the afternoon. Both he and his mother were threatened with death if they filed a complaint. When he returned to the police station he was kept until the following day. On 19 April 2004 he was produced before a judge in connection with a theft charge. He was released on bail and told to appear in court on 17 August 2004. His lawyer informed the judge about the treatment he had received while in custody. After his release, he was admitted to Nagoda General Hospital.

1529. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have not yet been confirmed. To date the outcome of the medical examinations are not available.

1530. **Aththana Gamaralalage Ravindra**, a 26-year-old man from Katupotha. On 13 May 2004, he was arrested along with three other persons by policemen in plain clothes at a relative's shop. They were taken to Katupotha Police. At the time of the arrest, he was assaulted by an inspector of police (whose name is known to the Special Rapporteur), as a result of which he lost a toenail. At the police station, he was assaulted again when he asked why he had been brought there. He was later taken to Kalupotha Hospital, where a DMO issued a report without examining him. He was taken back to Kalupotha Police Station, where he was beaten with a wooden pole, punched and kicked by the same Inspector of Police. As a result, he sustained severe damage to his left ear. He was charged with unlawful assembly and causing a disturbance in a public place. He was released on bail and told to appear at Warriyapola Magistrate's Court on 23 May 2004. After his release, he received medical treatment at Kurunegala Teaching Hospital and filed a complaint with the DIG of Wayamba and the Senior Superintendent of Police of Kulyapitya.

1531. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have not yet been confirmed. To date the outcome of the medical examinations are not available.

1532. **Punchi Kankanamge Ninal**, a 37-year-old casual worker residing in Kekulaliya, Poruwadanda. He was summoned to the Horana Police Station on 6 June 2004. There, he was severely assaulted while being questioned about a lost motor at his workplace. He was hit on the face, ears, buttocks and thighs with a rubber hose for about 10 minutes. He was ordered to kneel down and was slapped for about 15 minutes. He was also ordered to remove his clothes and kicked on the thighs and lower abdomen. Although he fainted twice, he continued to be kicked and beaten. He was threatened with being charged with possessing a bomb if he did not say what he knew about the theft. After the threats he was beaten again with a rubber hose and forced to sign a document. He was later released on bail and taken to Ingiriya Government Hospital by his relatives on 7 June 2004. The incident was reported to the Assistant Superintendent of Police of Horana on 10 June 2004. No statement about the incident was taken from him and he was not examined by a JMO.

1533. The Government informed that investigations by the SIU are in progress. An inspector of the Horana Police has been identified as the perpetrator. The report of the District Medical Officer is awaited.

1534. **M. A. D. D.**, a 17-year-old student, Gurutalawa. He was arrested at his home on 7 June 2004 by six officers from Panadura Police Station, taken to the crimes branch and handcuffed. He was beaten on the face, head and back. He was accused of breaking into a police officer's house. He was locked into a cell and not fed until the following day. On 8 June 2004, a sergeant (whose name is known to the Special Rapporteur), handcuffed him with one hand over his shoulder and the other behind his back. While in this position, he was beaten with a rubber hose on the head, the lower abdomen, buttocks, legs and toes for about 45 minutes. He was ordered to confess to the burglary. He was subjected to similar treatment on various occasions during the day. Later on he was told to sign a statement. On the morning of 9 June 2004, he was fingerprinted and assaulted again. He was released in the afternoon. He had pain all over his body and bled from the nose. He was admitted to Kalubovila Government Hospital and examined by a JMO on 10 June 2004.

1535. The Government informed that officers of Panadura Police Station were summoned to the CID to record their statements, and the advice of the Attorney General will be sought pending the completion of the inquiry. The medical examinations indicated that the victim sustained psychological trauma, and presently the victim has no injuries to his nose. Investigations are ongoing.

1536. **J. S. Chaminda**, aged 21, **B. W. L. Ajith Kumara**, a 30-year-old driver, **Ananda Baas**, a mason, **M. K. Gnanawathi**, aged 58, and **Roshan Wijekoon**, her son. J. S. Chaminda, B. W. L. Ajith Kumara and Ananda Baas were stopped by seven police officers from Badureliya Police Station on 27 June 2004, when they were on their way home in a three-wheeler belonging to B. W. L. Ajith Kumara. They were dragged out of the vehicle and assaulted by the police officers, including by an OIC (whose name is known to the Special Rapporteur). They were asked about the whereabouts of a man named Ananda Wijekoon and taken to Badureliya Police Station. They were later taken to Badureliya Government Hospital, where the DMO issued medical certificates without conducting proper examinations. It is also reported that the DMO issued a false report stating that B. W. L. Ajith Kumara was drunk at the time of the arrest. On the same day, the same police officers went to the house of M. K. Gnanawathi, who is the wife of Ananda Wijekoon, and assaulted her and Roshan Wijekkon. On 28 June 2004, J. S. Chaminda and Ananda Baas were released on bail. No charges were filed against them. B. W. L. Ajith Kumara was charged with driving under the influence of alcohol and produced before the Matugama Magistrate's Court. According to the information received, before he was produced in court, he was threatened with the permanent confiscation of his three-wheeler if he did not plead guilty. He eventually admitted that he was driving under the influence of alcohol, and he was made to pay a fine and subsequently released.

1537. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have not yet been confirmed. To date the outcome of the medical examinations are not available.

1538. **Jayasekara Vithanage Saman Priyankara** and his relatives (cited in a previously transmitted communication). According to new allegations received, on 7 July 2004, he was taken with his brother, **Susil Chinthaka**, to Matale Police Station. The NHRC and the NPC were immediately informed about their situation by local human rights organizations. Police higher authorities immediately made inquiries about the matter and instructed Matale police to take Jayasekara Vithanage Saman Priyankara to a hospital. However, he was taken to a doctor with strict instructions that he should not reveal anything. Afterwards, he was taken back to the Matale Police Station. He was produced before a court on 8 July at 11 am. He made a detailed statement on the circumstances of his arrest and the treatment received to the judge, who recorded it and ordered that he be be produced before a JMO and taken to the Army Headquarters, as the police alleged that he was an army deserter. He was later released on bail. Susil Chinthaka was also released on bail. He was admitted to hospital. It is also reported that Jayasekara Vithanage Saman Priyankara's wife has been harassed by unknown telephone callers who have been threatening to kill her and her husband.

1539. The Government informed that investigations by the SIU are in progress. The identities of the perpetrators have not yet been confirmed. To date the outcome of the medical examinations are not available.

1540. By letter dated 8 September 2004, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government responded to some of them by letter dated 26 November 2004:

1541. **Kurundukarage Eranjana Sampath**, a 28-year-old businessman from Rannagala, Neboda. On 2 January 2004, he was arrested by the Officer-in-Charge (OIC) of the Thebuwana Police and taken to the police station, where he was kept in a cell until the following day. On 5 January he was taken to the office of the OIC, who reportedly slapped and beat him with a wooden pole on the soles, elbows, knees, fingers and toes. His mother went to the police station and pleaded to the OIC to stop beating him. However, she was in turn forced to beat her son with the pole. Kurundukarage Eranjana Sampath was produced before a judge on 6 January, although the law provides that a detainee should be produced before judicial authorities within 24 hours after the arrest. He was released on 7 January and admitted to Nagoda hospital. He was discharged on 9 January 2004. He sent a complaint to the Senior Superintendent of Police, the Inspector General of Police, the National Human Rights Commission and the National Police Commission. He also filed a fundamental rights application with the Supreme Court. After his case was filed, he was threatened to withdraw the complaint. He was also threatened by the above-mentioned OIC with being taken into custody and charged with fabricated allegations. He was arrested again on 22 May 2004 and handed over to the Thebuwana police on grounds that he had stolen a kitchen sink. He was produced before the Mathugama magistrate on 24 May 2004, who ordered him to be remanded until 1 June 2004.

1542. The Government informed that investigations by the SIU are in progress.

1543. **Thusev Kamal Priyantha**, a 25-year-old man from Magala North, Uragasmanhandiya, and **Matarage Sudhrsana Priya Kumara**, a 23-year-old man from "Lucky Sevena" Padagoda, Beruwala. On 26 April 2004, they were assaulted in the street in Beruwala by several police officers attached to the Aluthgama Police Station. They were beaten and kicked on the head, face, neck and genital organs. The police officers were allegedly inebriated. The two men were subsequently admitted in Ward No. 11 at the Nagoda General Hospital, Kalutara. Both sent a complaint to the Assistant Superintendent of Police on 26 April 2004. On 14 May 2004, the OIC of Aluthgama Police Station summoned them to the police station. He informed them that no measures could be taken because it was not possible to identify the perpetrators, and offered them Rs. 2,000 each to settle the case.

1544. The Government informed that investigations by the SIU are in progress.

1545. Ms. **M. Piyawathi**, aged 48. On 31 May 2004, three plain-clothes policemen came to her house and asked for a bottle of Kasippu (illicit liquor). It is reported that when she replied that she had none, the three men slapped her in the face, severely hit her on the hands, and kicked her in the chest. They searched her house and took Rs. 13,720 (about US$ 137) and a gold ring. Ms. Piyawanthi, her 16-year-old son and her 22- year-old sister were taken to Baduraliya Police Station. There, a doctor examined Ms. Piyawathi and gave her treatment for the contusions she suffered. The Baduraliya Police charged them with obstructing police duty and brought them before the Matugama Magistrate courts. The magistrate ordered Ms. Piyawathi to be remanded for 10 days. The other two persons were released on bail. After her

release on bail from prison, she lodged a complaint about the incident with the National Human Rights Commission and the National Police Commission.

1546. The Government informed that investigations by the SIU are in progress.

1547. **Nanumuralage Roshan Jayaeera**, a 26-year-old man from Welawa. He was summoned to Wariyapola Police Station on 14 July 2004. He was taken to a separate room and slapped several times by an officer from the crimes branch. The officer allegedly pulled his hair and questioned him about his whereabouts on 18 and 19 June 2004. The detainee was subsequently beaten with a belt. Afterwards, he was handed over to two other police officers who assaulted him for about 15 minutes. He was released on the same day. On 15 July, Mr. Jayaweera returned to the Wariyapola Police Station and complained to the Officer in Charge (OIC) about his assault by the police on the previous day. However, the OIC ignored Mr. Jayaweera's allegations and his complaint was not recorded. On the same day, Mr. Jayaweera was admitted to Kurunegala General Hospital for treatment. During his stay, the police posted at the hospital took his statement, and a Judicial Medical Officer examined him.

1548. The Government informed that investigations by the SIU are in progress.

1549. **Halneththi Susil Indrajith Silva**, a 24- year-old carpenter from Paiyagal. On 20 July 2004, a group of police officers from Paiyagala Police Station entered his house and dragged him out. He was taken to the garden, where he was hit and kicked, including in the genitals, by the Officer–in-Charge. He fell to the ground and other officers forced him to stand and hit him with wooden sticks. He was dragged to a jeep and driven to the Paiyagala police station where he was placed in a cell. On 21 July 2004 at around 3:30 pm, he was brought before the Kalutara Magistrate on charges of possessing cannabis. His lawyer informed the magistrate that he had been beaten and subjected to other forms of torture and ill-treatment by Paiyagala police. The magistrate recorded Mr. Silva's statement, documented his wounds and contusions, remanded him and gave orders to prison officials that he should receive necessary medical treatment and that a JMO report on his health conditions should be submitted. The incident was later reported to the National Human Rights Commission.

1550. The Government informed that investigations by the SIU are in progress.

1551. **B. S.**, aged 17, **M. N. S.**, aged 17, and **Anthonysamy Anandakumar**, aged 19, all from Tawalankoya, Ukuwela. On 22 July 2004, B. S. and M. N. S. were arrested without a warrant and taken to Matale Police Station. They were accused of having broken into a police officer's house and stolen Rs. 12,000. During the detention, the two men were stripped of their clothes and blindfolded. They were beaten with iron rods, slapped and kicked by several police officers. B. S. was beaten on his chest and soles of his feet with cricket wickets, made to lie down flat on his face and beaten on the back and thighs. On 23 July 2004, Anthonysamy Anandakumar, a close friend of B. S. and M. N. S., was also taken to the police station. He was beaten and kicked, especially on the lower abdomen. The three detainees were later taken to a District Medical Officer (DMO), but were not provided with medical attention. The three of them were produced before a judge, released on bail on 24 July 2004 and immediately admitted to Matale Hospital. Although they informed the JMO and the DMO of Matale Hospital about the treatment subjected to while in custody, they were not examined properly.

1552. **L. A. P. K.**, aged 14, and **L. C.**, aged 15. On 7 August 2004, they were arrested by police officers of the Ambalangoda Police Station and taken to the station without their parents. At the station, the two children were stripped naked, blindfolded and beaten with wooden poles. The police told the parents that if they did not pay Rs. 3,000 the police would prosecute the two children and remand them for 14 days. The two boys were released on 9 August 2004 after their families paid the amount requested by the police. They were severely bruised and both suffered from contusions and depression. They were admitted to Balapitiya Government Hospital where they received medical treatment.

1553. **Wijesekara Pathiranage Lionel Weerasinghe**, a 33- year-old mason from Waguruhena, Matalapitiya, Walawela Matale. On 16 July 2004 at around 11 am, he was arrested by six plain-clothes officers from Yatawatta Police Station at work at a cinnamon plantation. He was put in a van and taken to his house without being given any explanation. There, he was beaten on the back with a wooden pole. He was later taken to Yatawatta Police Station, where he was told that he was accused of stealing cinnamon worth Rs. 80,000. He was ordered to squat and put his tied hands in front of his knees. The police inserted a pole between the back of his knees and his arms. He was lifted and suspended in this position. He was then severely beaten on the buttocks and the soles of his feet with an iron bar for about 90 minutes, while he was being made to turn like a wheel. He was later ordered to lie down on the floor and to take two tablets that the Officer–in-Charge gave him without telling him what they were for. Later the same day, some police officers pricked the tips of his left thumb and little finger with two needles and coerced him to make a false confession. As he denied the charges, the officers pricked the tips of his left toes with two needles. Afterwards, he was beaten again with a wooden pole for several hours. On the following day, he was subjected to similar treatment. While in police custody, he was provided with no medical attention. At around 8:30 pm on 17 July, he was taken to Matale Police Station. On the following day, he was produced before Matale magistrate court, which remanded him to Kandy Remand Prison. He was released on bail on 17 August 2004 and ordered to report to Matale Police Station every month. After his release, he made a complaint to the National Human Rights Commission and the National Police Commission about his case.

1554. **B. G. C. B. J.** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, paras. 1463, 1510-1511). According to the new information received, the National Human Rights Commission opened an inquiry into this case. It found that the complaint made by the child was true and that four police officers of Ankumbura Police Station had violated his constitutional rights. However, no criminal action has been taken against the alleged perpetrators. The child and his mother are currently in hiding with the help of local human rights groups.

1555. By letter dated 16 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1556. **Kadawatha Gedara Dharmasiri**, aged 32, Ulpathagama village, Ella, Hasalaka. On 2 August 2004, near a shop in the village, he was accused of making illicit liquor and beaten by a policeman of the Hasalaka Police Station (whose name is known to the Special Rapporteur). He was injured seriously on the left hand, left arm, left rib cage, back and head. An official complaint with the Kandy Police Station, the National Police Commission and the National Human Rights Commission was filed. He has undergone treatment for his injuries at

the Kandy General Hospital, including surgery on his left hand. He is still in pain from the injuries he suffered. On 17 October, the day before the hearing for the illicit liquor charge before the Mahiyangana Magistrate Court, he was visited by policemen of the Hasalaka Police Station, threatening him to drop the complaints made against the policeman and not to attend the court hearing. He was threatened by them again the next morning. At the hearing he pleaded not guilty, was released on bail, and the case was scheduled for a hearing on 13 December. He has reportedly been harassed by the local police since then.

1557. **Heeralu Mohottalalage Punchi Banda**, aged 39, a farmer, Himbiliyagahawatte, Weheragoda, Halpe, Balangoda. On 26 August 2004 at about 4.30 pm, he was dragged out of his house by a sub-inspector and sergeant of the Samanalaweva Police Post, Balangoda (whose names are known to the Special Rapporteur). He was hit on the head, including with a wooden pole, and kicked all over the body by the officers, who were searching for a trap gun. The sub-inspector wound a nylon rope around his head until his neck bled. Mr. Punchi Banda's hands were bound behind his back with nylon rope and taken 1km inside a wooded area to search for the gun. He was brought back to the road near his house, boarded onto a bus and taken to the Samanalaweva Police Post, where they arrived at 8.30 pm. Inside, he was handcuffed to a table leg and forced to sit on a mat until 6am the next day. He was not provided medical attention. He was taken by the sub-inspector to the Oluganthota Government Hospital, and threatened not to say anything about the beatings. On 27 August he was produced before the Balangoda Magistrate Court, his statement about the police assault was recorded, and he was remanded in custody. He is released on bail. He is suffering from pain in his neck, head and chest as a result of the treatment suffered.

1558. **Rathnasiri Senadheera**, aged 42, Akkara, Ilambe Junction, Horana. On 29 September 2004, he went to the Horana Police Station to bring his brother, who was in police custody, some lunch. The sub-inspector (whose name is known to the Special Rapporteur) seized him by the neck and dragged him inside the station. Rathnasiri Senadheera was hit by the sub-inspector against a wall several times in front of his brother. He was beaten with fists on his abdomen and chest for 15 minutes until another policeman intervened. He was admitted to Horana District Hospital for five days.

1559. **Welgama Ralalage Wijitha Herath**, aged 40, a business man. On 5 September 2004 at 4 pm, he was kicked and beaten from behind as he went to visit persons detained at the Polgahawela police station. He was taken to the Officer-in-Charge's (OIC) room, where the OIC beat him with a Kitul tree pole. After around nine strokes, he was ordered to the police station compound and told to remove his shirt and fold his sarong. The OIC struck him with the pole around 15 times, and ordered him to crawl around the compound. He was kicked repeatedly and later taken to a cell and beaten for about 15 minutes. Mr. Wijitha Herath was taken by the police to the Polgahawela Government Hospital and produced before a doctor, who without examining him provided a report. He was returned to the police station, released on bail, and taken by his family back to the hospital for treatment.

1560. **Horathelpedige Vijitha Dammika Nimalasiri**, aged 25. At about 2 am on 5 September 2004, he was taken by four plain-clothes police officers and a uniformed officer (whose names are known to the Special Rapporteur) to Veyangoda Police Station without being informed of the reason for his arrest. He was beaten by the policemen on the chest, stomach and buttocks before boarding the vehicle, and once inside, he was beaten with rifle

butts and trampled. At the station he was taken to a dark room and ordered to take off all his clothes. Four policemen ordered him to lie on a wooden box, face downwards and raise his legs. They began to hit the soles of his feet with wooden sticks for about 15 minutes. After that, he was turned face up and struck on his soles, knees and genitals. He was then turned face down, and forced to inhale from a plastic bag containing petrol that was tied to his neck. This process continued three times and he fell unconscious. When he regained consciousness at about 6 am, he was beaten by the police driver until he fell unconscious. He was put in the lock-up and at around 10 am released after a statement was recorded. He was hospitalized at the Gampaha Hospital on 10 September.

1561. **Ranawaka Arachchige Hemasiri**, aged 40. On 19 September 2004, he was detained by officers from the Kuruwita Police Station. At 2.10 am on the morning of 20 September 2004, he was beaten by two police officers (whose names are known to the Special Rapporteur). Through the iron bars of the cell he was held by one officer while another beat him on his lower abdomen with a broomstick. After four or five beatings, he fell to the floor in pain and remained there throughout the night without any medical assistance. When his wife went to the police station on the morning of 20 September, the victim informed her that the police had tortured him. On the same day at 4 pm, after he signed a statement that he had not read, he was taken to the Ratnapura General Hospital. He was examined by a doctor in the presence of a policeman and told him of the torture. He was later brought before the Ratnapura Magistrate, who remanded him in custody. At 7 pm his leg was shackled to a bed by a prison guard. By 21 September, because he could not pass urine, a catheter was inserted. He remained like this until 24 September, when he was transferred to Kuruwita prison, then to Welikade Prison Hospital, where he received treatment until 29 September. On 30 September, he was taken to Ratnapura Magistrate Court. His lawyer entered a guilty plea, despite not having received instructions to do so, and did not inform the court of the torture, he was found guilty of illegal possession of liquor, and fined.

1562. **Herman Quintus Perera**, aged 40. On 3 October 2004, two police officers of the Pollonawa Police Station arrived at the restaurant where he was working and asked for a bottle of liquor. Herman Quintus Perera refused because it was illegal to sell alcohol on that day. The officers left the restaurant, returned with a police jeep loaded with policemen and assaulted Herman Quintus Perera and other employees of the restaurant. He and three other employees were taken away in a jeep. On 4 October, the assistant manager was informed at the Pollonawa Police Station by the arrested employees that Herman Quintus Perera was not with them in the cell. He was later found in the morgue. The assistant superintendent of police claimed that the police raided the restaurant for illegal alcohol and that Herman Quintus Perera was killed in the ensuing fighting. It is reported that the officers involved did not corroborate this version of events.

1563. By letter dated 30 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1564. **Pushparaj Kanagaraj**, aged 20, Arnest Place, Rawathawatta, Moratuwa. On 23 September 2004, he was arrested at his workplace by four officers from the Pussellawa police station on suspicion of criminal damage of a bus. He was taken by van to the police station. En route, he was beaten by the officers. He was brought to the station at 9 pm, and a police officer entered his cell and beat him on the buttocks, back and legs with a wooden pole. He

was ordered to sit down and beaten on the soles and hands while he was holding his knees in a bent position. During the beating he was accused of stealing a CD player. The beating continued until 1 am on 24 September. At 5 pm he was produced before the Gampola Magistrate and remanded in custody at the Kandy prison. No treatment for his injuries was provided at the prison. He was released on bail on 7 November. No investigations have been carried out.

1565. **Edirisuriyage Ravindra Kumara**, aged 23, Diyagama, Galpatha. On 14 October 2004 at 1.45 pm, he was arrested near his home at the Diyagama junction by several officers, including a sub-inspector, of the Kalutara North police station. He was taken to a residence where some items had been stolen, and was beaten by the sub-inspector when he denied knowledge of the stolen items. He was then taken by police jeep to the police station and placed in a cell. Some time later, the sub-inspector took him to the station's kitchen and was beaten. He was ordered by several officers to kneel on the ground and his hands were bound behind his back. The officers began to bite and kick him. Then his hands were untied and he was forced to lie on the floor. The officers began to hit him with an iron bar, beating the soles of his feet, his legs, and his buttocks. During the beating the officers yelled at him to confess to the theft. On 15 October 2004, he went before the Kalutara Magistrate, testified that he was assaulted by the police officers, and showed the injuries that had sustained. He was charged with the theft and remanded in custody at the Kalutara prison. When he arrived at the prison, he was beaten by the police. On 19 October, he was taken to the Nagoda Hospital where a doctor examined him and was then returned to the prison. On 28 October 2004, he was discharged from prison. Despite his complaints of ill-treatment no investigations have been conducted.

Urgent appeals

1566. On 16 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding **Michael Anthony Emanuel Fernando** (cited in previously transmitted communications, E/CN.4/2004/56/Add.1, paras. 1465 and E/CN.4/2004/62/Add.1, para. 684). Mr. Fernando has complained on several occasions about serious threats to his life in reprisals to the complaints of human rights violations he has made to Sri Lankan courts as well as to the United Nations Human Rights Committee. On 9 January 2004, the Committee has issued interim measures requesting the State party, while the communication is under consideration by the Committee, 'to adopt all measures necessary to protect the life, safety and personal integrity' of Mr. Fernando and his family members 'so as to avoid irreparable damage to them'. According to the allegations received, on 2 February 2004, he was admitted unconscious to the Kalubowila Hospital after he was sprayed in the face with chloroform. Mr. Fernando was discharged from the hospital on 7 February 2004. He was accompanied home by the two policemen who were guarding him in the hospital. A request for further protection has yielded no outcome, and he was forced into hiding.

1567. By letters dated 2 and 3 December 2004, the Government informed that a police investigation is in progress. On 2 February 2004 a statement was recorded from him. He was unable to name the suspects or provide the police with the license number of the vehicle that the perpetrators came in. Action will be taken against any credible evidence into the alleged

threats. His residence is under police surveillance. He is currently residing in Hong Kong. In the past, complaints of security threats have been made by asylum seekers to bolster their asylum applications outside Sri Lanka.

1568. On 3 May 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 the right to health, regarding **Koraleliyanage Palitha Tissa Kumara**. According to the allegations received, he is held at the Remand Prison, Kalutara, where he is not provided with adequate medical attention for injuries he sustained as a result of torture in detention. He was arrested on 3 February 2004 and detained at Welipenna Police Station, Kalutara district, until 6 February. The sub-inspector (whose name is known to the Special Rapporteur) assaulted him with a cricket post on the neck, back, ears, head, hands, buttocks, ankles and knees; injuries which are reportedly visible on the body. Mr. Kumara reportedly cannot stand and has injuries on the left side of his face, which prevents him from sleeping on that side. His right wrist was severely injured as a result of being handcuffed to the iron rails of the cell and pushed around. The sub-inspector hit Mr. Kumara on his chin with a gun. Another detainee, who had tuberculosis, was forced to spit into Mr. Kumara's mouth. He is reported to have experienced vomiting, as well as coughing up blood. Mr. Kumara initially was denied medical treatment for his injuries. Before he was taken to a magistrate, Mr. Kumara was forced by the sub-inspector to place his thumbprint on a grenade. On 12 February, he was sent to the Judicial Medical Officer of Colombo for examination.

1569. By letter dated 29 November 2004, the Government informed that investigations by the SIU are in progress.

1570. On 4 June 2004 the Special Rapporteur sent an urgent appeal regarding **Vidanalage Dinesh Tharinda de Mel**, 21 years old. According to the allegations received, around 9pm on 1 June 2004, the Moratuwa Police arrested him at Laxapathiya. The reason for his arrest is unknown. When the victim's mother went to the Moratuwa Police Station to see her son on 2 June 2004, Vidanalage Dinesh Tharinda de Mel told her that the police tortured him; his right hand was broken, and he was unable to walk because of beatings on the soles of his feet. When she returned at 5 pm to take her son on the instructions of the OIC, the officer who had arrested her son chased her away. She waited until 9.45 pm outside the police station but her son was neither released nor produced before a magistrate. On 3 June, when she went to the police station again, she discovered that her son was taken to the Dehiwala Police Station as the officer who arrested him was from there. There she was told no such person was brought there despite sighting him at the station.

1571. On 8 July 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding **Koralaliyanage Palitha Tissa Kumara** (cited in a previously transmitted communication). According to the allegations received, a fundamental rights case is pending before the Supreme Court concerning torture, illegal arrest and detention. It is however reported that the alleged perpetrator continues to work at the Wellipena Police Station. On 16 June 2004, Koralaliyanage Palitha Tissa Kumara was informed that he would receive 500,000 rupees from the police if he withdrew his complaint about the treatment received in custody. He also received another message according to which his wife and child would be crushed to death by a vehicle if the complaint was not withdrawn. On 4 July 2004, a police constable believed to

belong to the Wellipena Police Station came to his house and told his wife to withdraw their complaints against the police or they would not live very long. The NPC and the NHRC have been informed about these reported threats.

1572. On 8 July 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 extrajudicial, summary or arbitrary executions regarding Mr. **Jayasekara Vithanage Saman Priyankara**, a 32-year-old poultry farm owner. According to the allegations received, on 5 January 2004, he was arrested at his place by police officers in plain clothes from Matale Police Station. At the time of his arrest, he was hit on the cheek and back. In Matale Police Station, boiling water was poured over his right thigh and genitals. He was kept in a cell for a whole night without being given food, water or medication other than some oil for his burns. On the following day, he was asked to leave the police station by the rear door and warned that he would be killed if he reported the incident or sought medical assistance. Although he first complied with these instructions, he went to Kandy General Hospital on 21 January 2004. He also filed a complaint with Kandy Police Station. On 31 January 2004, his statement was taken at Matale Police Station. A fundamental rights application was filed with the Supreme Court on 2 February 2004. On 7 July 2004, about ten policemen from Matale Police Station went to his house and reportedly beat him severely. He was taken to Matale Police Station, where he is currently held.

1573. On 24 September 2004, the Special Rapporteur sent an urgent appeal, regarding **S. Channa Prasanka Fernando**, a 27-year-old man from Negombo. According to the allegations received, on 13 June 2004, he was severely assaulted by police officers at Negombo Police Station. He subsequently filed a complaint with the Inspector General of Police. Following his complaint, he reportedly received a series of threats by a sergeant (whose name is known to the Special Rapporteur). He also informed the Inspector General of Police about the threats made against him. On 15 September 2004, he was abducted, and put in a van by a group of people. In the van, the above-mentioned sergeant threatened him and hit his head with a pistol, as a result of which he lost consciousness. He woke up on the following day in an unknown place, with his hands tied and his mouth stuffed with cloth. Later that day, the sergeant came in the room and assaulted and threatened him to withdraw his complaint. On 17 September, he repeated the same threat until S. Channa Prasanka Fernando wrote a letter stating that he withdrew all complaints against the sergeant. He was also forced to write a letter to his mother stating that he wanted to voluntarily commit suicide. Upon writing these two documents, he was beaten on the head, as a result of which he lost consciousness again. He was later released. He filed a complaint with a nearby police station and was taken to Negombo Hospital, where he was treated for two days. According to medical reports, he presented numerous marks on his body suggesting that he had been beaten with a cable and that he had been hit on the forehead with another object.

1574. By letter dated 26 November 2004, the Government informed that investigations by the SIU are in progress.

1575. On 8 November 2004, the Special Rapporteur sent a joint urgent appeal with the the Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding **H. L. S. K.**, and **his mother** (cited in a previously transmitted communications, E/CN.4/2004/56/Add.1, para. 1512). According to the allegations received, the fundamental

rights application by H. L. S. K. against the police officers allegedly responsible for his torture is scheduled to be heard on 10 December 2004 by the Supreme Court. Threats by the perpetrators against him and his family to withdraw the case have intensified.

1576. On 22 November 2004, the Special Rapporteur sent an urgent appeal, concerning **Gerald Mervin Perera** (cited in previously transmitted communications, E/CN.4/2003/68/Add.1, para. 1571, and E/CN.4/2004/56/Add.1, para. 1557). According to the allegations received, on 21 November 2004 around 11.15 am, he was shot and seriously injured while travelling to work at the Colombo dockyards. After he boarded the bus at Welisara, an unidentified person, who was riding in a car bearing licence plate No. 65-68-39, also boarded the bus. He walked to where Gerald Mervin Perera was sitting in the back row and shot him. The gunman then fled in the same car. The bus driver drove directly to Ragama General Hospital, and after some treatment Gerald Mervin Perera was dispatched to the Colombo main hospital for emergency services. His condition is reportedly critical. On 4 April 2003, Gerald Marvin Perera reportedly obtained the highest compensation payout for a fundamental rights application from a Supreme Court decision, in relation to a claim of torture by police officers of the Wattala Police station. He is currently the complainant in the criminal case at the Negombo High Court against the officers. In recent weeks, Gerald Mervin Perera has been harassed to withdraw the case. Family sources say that a group of policemen visited his house recently to pressure him to withdraw the case. The defendants have been visiting other persons known to Gerald Perera to ask them to have him withdraw the case. A provincial council member of Mabole has also visited his house for this purpose.

Follow-up to previously transmitted communications

1577. By letter dated 16 December 2002, the Government provided information concerning **Sarathambal Saravanbavananthakurukal** (E/CN.4/2001/66, para. 958). The Government informed 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 this case. However, the CID was further advised that if any new information on other material relating to the perpetration of this offence was received, investigations should be recommenced.

1578. By letter dated 24 December 2003, the Government provided information concerning **Velu Arshadevi** (E/CN.4/2003/75/Add.2, para. 176). The Government informed 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 Magistrates 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. 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.

1579. **Poomany Saravanai** (E/CN.4/2003/68/Add.1, para. 1614). The Government informed 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.

1580. A **33- year-old mother** (ibid, para. 1613). The Government informed 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.

1581. A **mother of two children** (ibid, para. 1611). The Government informed 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.

1582. **Nandini Herat** (E/CN.4/2003/68/Add.1, paras. 1628, and E/CN.4/2004/56/Add.1, para. 1498, 1572). The Government informed that the Attorney General decided to indict the accused police officers under the Torture Act. The case was taken up on 5 November 2003 at the High Court, Kurunegala. The next trial date is 16 February 2004.

1583. By letter dated 24 December 2003, the Government provided information concerning:

1584. **Kandaiyan Udayakumaran** (E/CN.4/2003/68/Add.1, para. 1620). The Government informed that he was taken into custody by the navy to be questioned in connection with terrorist acitivities. He was pronounced dead when admitted to Mannar hospital by the navy personnel. Mannar police initiated investigations into the incident and a magisterial inquiry was held. The District Medical Officer of Mannar who conducted the post-mortem reported that the death was caused by strangulation. Accordingly, the suspects were later indicted in the Anuradhapura High Court and the case is pending.

1585. **W. A. P. Jayaratne** (ibid, para. 1619). The Government informed that Mahawela police conducted investigations into the incident on information provided by Nalanda Hospital. It was reported that a person in an army uniform and several others brought a body to the hospital on 20 June 2001. They did not identify themselves or disclose the cause of death. The deceased was in an army uniform and there were multiple injuries on his body. The police reported the incident to Paldeniya Magistrate on 21 June, and a post-mortem was conducted. Five army personnel at the Koholanwala army camp were arrested, charged and later indicted in the High Court for murder.

1586. **Jayakodige Anura Wijesiri** (ibid, para. 1623). The Government informed that the Attorney General's Department received a complaint on 21 November 2001 from the father of the alleged victim. The Assistant Superintendent of Police of Horana, who conducted the investigation, forwarded the file to the Attorney General's Department on 1 April 2002. According to the post-mortem report, the death at the Ingiriya police station was due to a suicide, and therefore no further action was taken. On the direction of the Inspector General of Police, the Special Investigations Unit conducted investigations into the alleged assault of the victim prior to his suicide. The decision by the Attorney General not to institute criminal proceedings was again arrived at upon an examination of the findings.

1587. By letter dated 24 December 2003 the Government provided information concerning:

1588. **Jeyanthi Veerasingham** (ibid, para. 1616). The Government informed that the SIU 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, a well-known modus operandi of the Liberation Tigers of Tamil Eelam (LTTE). She was rushed to Vavuniya Hospital where she died. The post-mortem report concluded that the death was caused due to cyanide poisoning. There was no evidence of torture or rape. Four bruises were found on the left and right cheeks of her face, which were reportedly as a result of attempts by a female soldier to prevent Jeyanthi Veerasingham from swallowing the capsule. A verdict of suicide was returned. The SIU found no evidence to allege that she was raped or subjected to torture prior to her suicide. Its report is forwarded to the Attorney General's Department for advice.

1589. **S. Umadevi** (ibid, para. 1617). The Government informed that the SIU recorded a statement of 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.

1590. By letter dated 23 March 2004, the Government provided information concerning **W. A. Dhanapala Perera** (E/CN.4/2004/56/Add.1, para. 1501). The Government informed that the Supreme Court ordered the perpetrators to pay compensation and costs to W. A. Dhanapala Perera, and ordered the Superintendent of Police and the Inspector General of Police to take appropriate action against the officers. Furthermore an initial inquiry was initiated by the Senior Superintendent of Police, Kaluthara. Charges were brought against the concerned officers for torture on 22 July 2003, and the relevant inquiry is in progress. Simultaneously, the Special Investigations Unit forwarded extracts of its investigation notes to the Attorney General's department on 11 January 2004 seeking advice as to whether there is a possibility to consider charges against the officers under the Convention against Torture Act. The matter is under consideration at present.

1591. By letter dated 23 March 2004, the Government provided information concerning **Indrani Silva** (E/CN.4/2004/56/Add.1, para. 1504). The SIU is conducting an investigation into the case. Steps will be taken in due course to record statements by the witnesses.

1592. By letter dated 23 March 2004, the Government provided information concerning **Sathasivam Rathykala** (E/CN.4/2004/56/Add.1, para. 1502). The Government informed 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.

1593. By letter dated 23 March 2004, the Government provided information concerning **Velmurugu Thanalauxmi**, **Velmurugu Thangeswaray** and **Thamotharam Yokampikai** (E/CN.4/2003/68/Add.1, para. 1612). The Government informed that the three women in their statements to the SIU categorically denied that they were raped. They further stated that it was a report published to bring disrepute to the Sri Lankan Army. The Grama Niladhari (Village Officer) of the area where the women were living confirmed that such an incident did not take place, and the SIU decided to terminate the investigation.

1594. By letter dated 23 March 2004, the Government provided information concerning **W. Sujeewa Priyadarshana** (E/CN.4/2003/68/Add.1, para. 1621). The Government informed that he was admitted to Nagoda General Hospital for treatment as he suddenly fell ill where he died. According to the post-mortem conducted by the JMO of the hospital on 1 February 2001, it was revealed that the cause of death was epilepsy. The findings were confirmed by JMO of Colombo. According to the reports there was no evidence that the victim had been assaulted or injured while in custody. The Attorney General's department advised the Special Investigations Unit that it was not possible to initiate a criminal prosecution, and the investigation was terminated.

1595. By letter dated 23 March 2004, the Government provided information concerning:

1596. **Hetti Kankanamalage**, **Chandana Jagath Kumar**, and **Ajith Shantha Kumana Peli** (E/CN.4/2004/56/Add.1, para. 1462). The Government informed that the SIU commenced an investigation into this allegation and forwarded extracts of the investigation notes to the Attorney General's Department on 12 December 2003. The matter is under consideration by the Attorney General at present.

1597. **Ramiya Saravanarajah**, **Ramiya Dhanapala Singham** and **Murugaiya Prabhakaran** (ibid, para. 1464). The Government informed that the SIU conducted an investigation into this case. The three men attacked the three-wheeler and its driver. The police arrested them for their wrongful conduct and produced them before the Hatton Magistrate Court. Ramiya Saravanarajah, Ramiya Dhanapala Singham and Murugaiya Prabhakaran were remanded on 15 July 2003 and later released on bail. After three days they lodged a complaint with the Assistant Superintendent of Police on 18 July 2003, and were admitted to the Nuwara Eliya Government hospital. However they had not complained to the Hatton Magistrate of the alleged treatment in detention at the Hatton Police Station despite the opportunity to do so. There was no evidence that the police

officers assaulted the victims during the period of detention. The District Medical Officer's report revealed that at the time of the arrest the above-named persons were under the influence of alcohol. The notes of the investigation were sent to Attorney General's Department for advice and the matter is under consideration.

1598. **Michael Anthony Fernando** (ibid, para. 1465). The Government informed that he submitted a communication under the Optional Protocol to the International Covenant on Civil and Political Rights to the Human Rights Committee in relation to the alleged infringement of his rights. The Government has submitted its response on the admissibility and the merits of the communication, and the matter is pending before the Committee.

1599. **S. I. M. Nazer** (ibid, para. 1466). The Government informed that arrangements are being made by the SIU to go to Kantale to trace the alleged victim and record a statement.

1600. **J. Tahsleem** (ibid, para. 1467). The Government informed that the SIU took action to record his statement on the alleged incident, but so far all attempts have been unsuccessful. By letter dated 3 December 2004, the Government informed that attempts to locate the victim have failed, including through newspaper notices [copies published in September 2004 in four different Tamil newspapers were provided to the Special Rapporteur], and therefore the SIU is unable to proceed further.

1601. **Sellathurai Kanthen** (ibid, para. 1468). The Government informed that the SIU made several attempts to trace the victim through the Sri Lanka Monitoring Mission as he is reportedly living in an uncleared area; under the control of the LTTE. No responses to the letters of the Monitoring Mission have been received. The SIU is unable to proceed with further investigations at this stage. By letter dated 3 December 2004, the Government informed that attempts to locate the victim have failed, including through newspaper notices [copies published in September 2004 in four different Tamil newspapers were provided to the Special Rapporteur], and therefore the SIU is unable to proceed further.

1602. **Thankarajaha Thanapalan** (ibid, para. 1469). The Government informed that the SIU made attempts to trace the victim, without success, and therefore the proceedings of the investigation have been suspended. To successfully prosecute the alleged perpetrator it is essential that the victim gives evidence recounting the details of the incident before the trial court. The Government seeks further information from the Special Rapporteur to locate Thankaraja Thanapalan and to obtain a statement from him.

1603. **Manokaran Prakalatharan** (ibid, para. 1470). The Government informed that the SIU made several attempts to trace the victim, including through the Sri Lanka Monitoring Mission as he is reportedly living in an uncleared area. However, no responses to the letters of the Monitoring Mission have been received. Since all attempts to trace his whereabout have failed, the SIU is unable to proceed with further investigations. By letter dated 3 December 2004, the Government informed that attempts to locate the victim have failed, including through newspaper notices [copies published in September 2004 in four different Tamil newspapers were provided to the Special Rapporteur], and therefore the SIU is unable to proceed further.

1604. **Mahooroff Musamil** (ibid, para. 1471). The Government informed that the SIU is investigating the case, and arrangements are being made to record a statement from the victim.

1605. **A. D. Ajith Rohana Chandrakumara** (ibid, para. 1472). The Government informed that the SIU commenced an investigation into this allegation and on completion, forwarded extracts of the investigation notes to the Attorney General's Department, where it is under consideration.

1606. **Paskaran** (ibid, para. 1473). The Government informed that the SIU commenced an investigation into this allegation, and visited the police division of Batticaloa, Vakarai to locate his whereabouts. Regrettably all the official documents were destroyed due to a terrorist attack on 11 December 2001 and there are no documents left to trace Paskaran. The Government is therefore unable to undertake a criminal investigation as the identity of the victim cannot be ascertained with the information given by the Special Rapporteur. Further details of the incident to enable the relevant authorities to conduct an investigation is welcomed.

1607. **T. Tharmarajan** (ibid, para. 1474). The Government informed that the SIU is making arrangements to record a statement by the alleged victim, the Judicial Medical Officer and the accused police officers. Statements have been recorded by witnesses to the alleged incident. By letter dated 3 December 2004, the Government informed that attempts to locate the victim have failed, including through newspaper notices [copies published in September 2004 in four different Tamil newspapers were provided to the Special Rapporteur], and therefore the SIU is unable to proceed further.

1608. **V. Rajandran** (ibid, para. 1475). The Government informed that the SIU recorded his statement on 28 November 2003. He stated that he does not want an investigation into this allegation and has further given an affidavit to this effect. Therefore, the SIU was advised to terminate the investigations. By letter dated 3 December 2004, the Government provided the Special Rapporteur with a copy of his affidavit.

1609. **V. S.**, **S. J.**, **S. S.** and **K. J.** (ibid, para. 1476). The Government informed that the SIU has recorded statements of V.S. and K. J. Attempts are being made to locate S.J., who is reported to be living in an uncleared area. Further investigations revealed that S. S. is evading arrest in connection with a burglary and therefore it is not possible to commence any investigation into this incident. By letter dated 3 December 2004, the Government informed that S. S. withdrew his complaint by submitting an affidavit, affirming that he had not been tortured or assaulted by any police official. The SIU has been unsuccessful in locating S.J. to record a statement, including through notices in the newspaper [copies published in September 2004 in four different Tamil newspapers were provided to the Special Rapporteur].

1610. **Santhirlinkam Inpasanthiran** (ibid, para. 1477). The Government informed that the SIU has recorded his statement and obtained documents from Vavuniya Police. Further investigations are underway.

1611. **Arumugam Manookaran** (ibid, para. 1478). The Government informed that the SIU has obtained relevant documents from the Vavuniya Police Station, and further investigations are underway.

1612. **Gunanayagam Kitnamoorthi** (ibid, para. 1479). The Government informed that the SIU has been sent to the Senuwara Police Station to record statements by the alleged victim and witnesses.

1613. **L. M. Lalith Deshapriya** (ibid, para. 1480). The Government informed that the SIU is making arrangements to record a statement from the alleged victim.

1614. **S.** and **A. T.** (ibid, para. 1487). The Government informed that the SIU had gone to Trincomalee to record statements by the alleged victims. By letter dated 3 December 2004, the Government informed that attempts to locate the victims have failed, including through notices in the newspapers [copies published in September 2004 in four different Tamil newspapers were provided to the Special Rapporteur], and therefore the SIU is unable to proceed further.

1615. **Padukkage Nishantha Thushara Perera** (ibid, para. 1488). The Government informed that the SIU commenced an investigation and forwarded extracts of the investigation notes to the Attorney General's Department on 23 December 2003, where it is under consideration.

1616. **D. P.** (ibid, para. 1489). The Government informed that the SIU commenced an investigation and upon completion, forwarded extracts of the investigation notes to the Attorney General's Department on 13 November 2003, where it is under consideration.

1617. **Mohamad Ameer Mohamad Riswan**, **Suppaiya Ravichandran** and **Abdul Karim Mohamad Roshan Latief** (ibid, para. 1490). The Government informed that the SIU has recorded statements of the alleged victims, and arrangements are being made to record the statements of witnesses.

1618. **Ajith** (ibid, para. 1493). The Government has informed that it cannot undertake a criminal investigation as the identity of the victim cannot be ascertained with the information given. Further details of the incident to enable the relevant authorities to carry out an investigation would be welcomed from the Special Rapporteur. By letter dated 18 May 2004 the Government requested the Special Rapporteur to provide his full name to assist in locating the alleged victim.

1619. **Garlin Kankanamge Sanjeewa** (ibid, para. 1494). The Government informed that the SIU conducted an investigation into this case and concluded that the evidence revealed that the death was a suicide. It has forwarded extracts of the investigation notes to the Attorney General's Department, where the matter is under consideration.

1620. **Okanda Hevage Jinadasa** (ibid, para. 1495). The Government informed that the SIU is conducting an investigation into this case. Some of the body parts were sent to Government's analyst for further investigations.

1621. **Kurupanawa Gamage Nihal** (ibid, para. 1496). The Government informed that the SIU recorded statements from the alleged victim, from several witnesses and the District Medical Officer of the Udugama Hospital. Arrangements are being made to record a statement by the suspected police officers.

1622. **L.** and **M. Shantbythevi** (ibid, para. 1497). The Government informed that the SIU commenced an investigation into this allegation and forwarded extracts of the investigation notes to the Attorney General's Department on 12 January 2004, where it is under consideration.

1623. **Saliva Padma Udava Kumara** (ibid, para. 1499). The Government informed that the SIU recorded statements of the victims, his parents and other witnesses and the suspected police personnel. Saliva Padma Udava Kumara stated that he was never arrested nor assaulted by any officer of the Wattegama police. After the investigations, the SIU forwarded the investigation notes to the Attorney General's Department seeking advice on further action. The investigations conducted revealed that the complaint was false and made by the relatives due to a family dispute.

1624. By letter dated 6 July 2004, the Government provided further information concerning **Vijayaratnam Subashini** (E/CN.4/2003/68/Add.1, para. 1605-1606). The Government informed that following her release on bail, she had given her address in an area not controlled by the security forces. All attempts made to trace the victim have failed, and the authorities have been compelled to suspend the investigations.

1625. By letter dated 6 July 2004, the Government provided further information concerning:

1626. **Rajaratnam Thevaratnam** (E/CN.4/2003/68/Add.1, para. 1557, and E/CN.4/2004/56/Add.1, para. 1550). The Government informed that because it has been unable to contact him for a second statement to identify the perpetrators, it has been compelled to suspend the investigations.

1627. **Sivaguru Ravaneethan** (ibid, para. 1528, and E/CN.4/2004/56/Add.1, para. 1535). The Government informed that he left the address provided by his relatives, and that his present whereabouts are unknown. Therefore it has been compelled to suspend the investigations.

1628. **Krishnasamy Thiviyan** (ibid., para. 1490, and E/CN.4/2004/56/Add.1, para. 1515). The Government informed that the Attorney General has decided that the evidence was not sufficient to institute criminal proceedings against any suspected officer. However he has advised the Crimes Directorate to undertake disciplinary action against the officer who arrested Krishnasamy Thiviyan, as it was revealed that he suffered some injuries.

1629. By letter dated 26 November 2004, the Government provided information concerning **Michael Colin David** (E/CN.4/2004/56/Add.1, para. 1500). The Government informed that investigations by the SIU are in progress.

1630. By letter dated 2 December 2004, the Government provided information concerning **B. C. B. J.**, **U.** and **B. P. K.** (E/CN.4/2004/56/Add.1, para. 1463). The Government informed that the SIU has almost completed its investigation. Statements were taken from those taken into custody and of 20 witnesses. The Judicial Medical Officer of the Kandy Hospital reported that B. C. B. J. had grievous injuries caused by a blunt weapon, which was confirmed by a subsequent examination by another Judicial Medical Officer. Once the investigation has been completed the report will be forwarded the Attorney-General for further action.

Observations

1631. By letter dated 22 April 2004, the Government responded to the observations of the Special Rapporter in his report, E/CN.4/2004/56/Add.1, paras. 1575-1577. The Government stated that the concluding observations made by the Special Rapporteur with reference to Sri Lanka are based on selective quotations from human rights treaty bodies without due reference to the responses sent by the Government. For instance, the periodic report by Sri Lanka to the Committee on the Elimination of Discrimination against Women, which is quoted by the Special Rapporteur, refers to the third and fourth periodic reports and do not reflect current positive developments as a result of the peace process which has continued without interruption for the last two years. The observations on the issue of corporal punishment also quote pre-independence colonial legislation dating back to 1889 and 1939 and does not take into account current administrative practice and recent positive developments (i.e. 30 March 2001 circular). Further, the Government refuted the contention of a restricted definition of torture in its legislation. The Sri Lankan courts have a tradition of giving liberal interpretation to domestic legislation expanding the scope of fundamental rights and giving effect to Sri Lanka's obligations under relevant international instruments. The courts have also read into domestic legislation provisions of the relevant international legal covenants dealing with human rights.

1632. By letter dated 19 May 2004, the Government provided information on a directive issued by the Human Rights Commission, entitled "Zero tolerance policy on torture", issued on 19 April 2004. The elements of the policy included, among other things, the setting up of a 24-hour special unit for torture and emergency cases; investigation into torture cases within 24 hours of the incident being reported; in the case of an adverse medical report, summoning before the Human Rights Commission the officer-in-charge of the police station where the death in custody took place; and discussions with the Police Commission to secure the interdiction of police officers found guilty of torture by the Human Rights Commission or the Supreme Court.

1633. By letter dated 22 July 2004, the Government inquired whether the Special Rapporteur on torture, the Special Rapporteur on violence against women, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the right to freedom of opinion and expression could accept as final replies to cases of alleged human rights violations, on instances where the investigations are completed and the Attorney General of Sri Lanka has sent an indictment to the relevant Court to initiate criminal proceedings. It noted that once judicial proceedings begin, the State has no control over them, which may sometimes take a long time to issue the final verdict.

1634. By letter dated 23 September 2004, the Special Rapporteurs responded that even in instances where investigations are completed and where criminal proceedings have been initiated, they needed additional information (i.e. details of conclusions of inquiries, judicial or other proceedings, reports of penal or disciplinary sanctions imposed on the perpetrators, as well as an indication of whether compensation and assistance were provided to the victims or their families) to thoroughly assess the specific situation and to be able to draw conclusions.

Sudan

1635. By letter dated 17 September 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur notified the Government that he received allegations concerning **Waiel Taha**, a student and member of the Sudan Organization against Torture (SOAT) student network in Sudan (cited in a previously transmitted communication, para. 1640). According to the new allegations received, he was released on bail on 7 January 2004. While in custody he was tied to a chair, blindfolded with a shirt and beaten on his genitals and other parts of his body with a water hose, and was threatened with rape. He was charged by the Chief Persecutor of the Crime Against the State with instigating students, illegal occupation of a room used by a guard and the destruction of a Student Support Fund's banner, under articles 144 (intimidation) and 182 (criminal mischief) of the Penal Code of 1991. Although he was released on bail, it is reported that he was ordered to report back to the Crime Against the State Office on 8 and 11 January 2004.

1636. By letter dated 6 September 2004, sent jointly with the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur notified the Government that he received allegations concerning some **45 students** from the University of Bkhat al Rodah, Al Duwain. On 17 March 2003, they were arrested after protesting against a decision by the Dean to refuse the establishment of a student union. It is reported that the police used rocks, pebbles, electric batons and tear gas, which resulted in injuries to many students, including Imjad Taha Hussain, Faiza Al Taieb Omer, and Limia Osman. The students were taken to the security office and detained for three hours, all in the same room, without any ventilation. Upon their release, they were ordered to evacuate their university rooms.

1637. By letter dated 30 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Rashid Mohamed Salih Mohamed Ahmed**, age 22, a student at the Faculty of Marine Science, Red Sea University, Port Sudan. On 27 May 2004, he was detained at a conscription camp outside Gibet town. He was beaten by three security officers inside the camp's security office. He was detained at the security office from 1pm until 4pm, and his documents dealing with Union activities were confiscated. He was questioned about his political activities, and the names of the students collaborating with him on his political activities in the camp and at the university. He was beaten with sticks, kicked and punched all over his body. He was threatened with torture if he reported the incident, and was coerced to sign a statement that he would not return to the camp, or the Faculty of Education again.

Urgent appeals

1638. On 23 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Islam Salih Adam Belo**, the director of the Sudan office of the Arabic-language television channel, *Al-Jazeera*. According to the allegations received, he was arrested in Khartoum, on 18 December 2003. Reports indicate that he is held in incommunicado detention and has had no access to his family.

1639. By letter dated 23 March 2004 the Government responded that this person broadcast a false news report about the national security authorities on Al-Jazeera television. He was arrested for that news report. A criminal case was filed against him with the Office of the Public Prosecutor of crimes against the State. He was then handed over to the Office. The Office completed the established legal formalities and he was released on personal recognizance that same day. The criminal case was sent for trial and is now being heard by the North Khartoum Criminal Court. Several sessions have already been held. The situation in Darfur has been officially declared an emergency situation that threatens the life of the nation. In spite of these circumstances, the State complies with the standards set out in article 9 of the Covenant, which were incorporated into the National Security Forces Act of 1999 and the regulation concerning the treatment of prisoners issued in pursuance thereof. Article 31 of the National Security Forces Act deals with the subject of preventive detention, while the regulation specifies the rights of persons who are arrested. Throughout the time that he was under arrest, the individual was treated in a manner consistent with the preservation of his dignity and in accordance with the law, the Constitution, international standards and the established practice of States vis-à-vis the bringing to account and prosecution of any public official, including members of the security forces, who commits an abuse of office or flouts the law. There is no impunity, as judicial precedents confirm. Article 31 of the 1998 Constitution of the Sudan explicitly recognizes that individuals have the right and liberty to seek a legal remedy. The individual has not exhausted the domestic remedies available to him under Sudanese law and that he still has the option of doing so. This is consistent with the provisions of the International Covenant on Civil and Political Rights.

1640. On 7 January 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Adeeb Abd El Rahman Yousif**, a 30 year-old teacher, **Saed Imam Alhaj**, a 35 year-old teacher, **Ibrahim Osman**, a 36 year-old merchant and **Arbab Abd El Mowla**, a 34 year-old teacher, all from the Fur tribe. According to the allegations received, they were arrested on 2 January 2004 by the security forces at the local market in Zaligny, Darfur, on suspicion of belonging to the Sudan Liberation Army (SLA). They are currently held in incommunicado detention at the security forces offices in Zaligny and that they have not been officially charged. Allegations have been received concerning **Omer Abdel Shaf'ih Rajab**, a 40 year-old manager of the Nyala branch of Export Development Bank, and **Mr. Osman**, a 47 year-old gatekeeper at this bank, the two of them from the Zaghawa tribe. They were arrested by the security forces in Nyala on 5 January 2004 on suspicion of supporting the SLA at the Nyala branch of the Export Development Bank. Omer Abdel Shaf'ih Rajab is reported to be currently held incommunicado at the security forces office in Nyala. Mr. Oman's whereabouts are reportedly unknown since his alleged arrest.

1641. On 8 January 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on human rights defenders, regarding **Waiel Taha**, a 23 year-old student and member of the Sudan Organization against Torture (SOAT) student network in Sudan. According to the allegations received, he was arrested by members of the National Security Agency (NSA) outside the Khartoum University Student Union Building on Nile Street on 5 January 2004, taken to an undisclosed location, and his whereabouts are unknown since then. A delegation from the Khartoum Student Union went to the NSA office and requested information on his whereabouts. However, the NSA denied that he had been arrested. According to the information received, another student, **Yousif Fat'h Al Rahman**, was arrested with Waiel Taha. He confirmed that they were both taken by force by nine individuals on a Toyota pick-up truck, 2002 model, and that they were subsequently separated. Yousif Fat'h Al Rahman was taken to the NSA building near Old Khartoum High School, where he was punched on the face, beaten on the soles of the feet and back, kicked, pressed hard on the stomach, forced to drink three litres of water with a bottle inserted to the throat, strangled and subjected to death threats by five security officers. He was hurled, blindfolded and handcuffed, into a road near Mahmood Sharief Station in Buri on 6 January 2004.

1642. On 13 January 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Abdel Shafie Issa Mustaf**, former Sudan Textile employee, **Adam al-Zubayr Issa**, merchant, **Adam Mohammad Osman**, merchant, **Ahmed Hassan Abdel Rahman**, banker, **Ahmed Taher Ahmed Shattah**, electronic technician, **Al-Fadi Tambour**, teacher, **Bushara Bushra Abdel Rahman**, **Idris Mohamed Ali**, merchant, **Ismail Abdallah Musa**, teaching assistant, **Hashem Hammam**, student, **Mohammad Abdallah Duma**, lawyer and former Minister of Local Government, **Mohammad Harun Kafi**, lawyer, **Mohammad Ismail**, student, **Mohammad Abu Bakr Idris**, **Mohammad Issa**, pharmacist, **Suleiman Ahmed Hussein** as well as a number of other individuals reportedly arrested by the military or national security forces in Khartoum, Nyala, Al-Jeneina and other towns in the Darfur region over the past month in connection with the conflict in this region. According to the allegations received, the above-named persons are currently held incommunicado without charge at the security forces' detention centres or at Kober prison in Khartoum.

1643. On 30 January 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding **Masar Ahmed Ishag**, a 37 year-old nomad, **Jali Adam Ahmed**, an 18 year-old nomad from Kirokirro and **Musa Hamid Ahmed**, a 20 year-old man from Kirokirro. According to the allegations received, they were arrested in Lawea village and transferred to Nyala prison on 8 February 2003 in connection with a murder investigation. They appeared before the Nyala criminal court in May 2003. They were not represented by a lawyer during the trial. On 3 November 2003, they were convicted, sentenced to death by hanging, and are at risk of imminent execution. Allegations were received concerning **Sanousi Alhaj Ismaeal**, a 27 year-old merchant from Hey Alwihda. He was arrested on 30 August 2003 and detained at the Nyala Janoub (south) police station, accused of killing a man in Hey Alwihda on 18 August 2003. Police officers in Nyala Janoub tortured, beat and flogged him in order to extract a confession that he allegedly refused to give. The Nyala Criminal Court sentenced him to death

by hanging on 29 December 2003, and is now be at risk of imminent execution. He was not represented by a lawyer during his trial. On 31 May 2003, **Mohamed Ishag Mohamed** was convicted of armed robbery, sentenced to cross amputation by the Kass Court, and his appeal was dismissed by the Supreme Court.

1644. On 13 February 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Abdallah Hamed Ismail**, age 25, a farmer, **Mohamed Hamad Adam Muta**, age 26, a farmer, and **Abdallah Mahmud**, age 28, a nomad, all from the Ma'aliya ethnic group. According to the allegations received, on 24 January 2004, the three men were arrested at 4pm by members of the internal security service at Adila market, in Southern Darfur State, and taken to the internal security detention centre in east Adila market. At 5pm they were transferred to the military camp in Adila. At 1am on 25 January, six internal security agents stripped the men and beat them on their backs and shoulders with whips, and tied them up. They then poured boiling water on the men's backs and burnt them with hot metal objects. This torture continued over a period of seven days to force them to confess to possessing guns and ammunition, an offence that carries the death penalty. The three men asked to be taken to hospital, but were refused. On 2 February they were transferred to the police station in Adila and charged with possessing guns and ammunition. On 5 February the police reportedly sent the detainees to Adila hospital for treatment. Medical reports from the hospital are said to confirm the allegations of torture. Abdallah Hamed Ismail had received serious injuries to his back and right eye. The three men are now apparently held in Adila police station, and they may soon face a summary trial before the "Specialised Criminal Court", which does not guarantee the rights of defense.

1645. On 18 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women, regarding **M. A. F.**, a 15 year-old girl, Al Wihida Neighbourhood (Unity), Niyala, Darfur (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, para. 1609 and 1610). According to the allegations received, she is at imminent risk of being flogged. She appealed against the sentence on the grounds that she was pregnant and not fit to undergo such punishment. Her lawyer 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 to appeal.

1646. On 5 March 2004, the Special Rapporteur sent a joint 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 violence against women, regarding the situation of **Alakor Lual Deng**, from the Dinka ethnic group. According to the allegations received, she is reportedly at risk of being executed by stoning after she was allegedly convicted of adultery by the Criminal Court in Nahud in Western Kordofan State in July 2003. She 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. Alakor Lual Deng is now reportedly awaiting her sentence at the prison in El Obeid, Northern Kordofan State with her ten-month-old baby.

1647. On 19 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 the right to freedom of opinion and expression, regarding **Dr. Ali Ahmed Daoud**, a veterinary doctor, and **Ali Hussain Dossa**, a Member of Parliament for North Nyala. According to the allegations received, the men were arrested on 15 March and are held in the Nyala security centre, South Darfur. It is reported that Dr. Ali Ahmed Daoud was attending a meeting in Ali Hussain Dossa's house with about 20 other people, all believed to be members of the Fur ethnic group. They were discussing ways of lobbying the government to end attacks against villages in the region by the government-backed Janjaweed militia. Members of the Sudanese security forces are said to have broken up the meeting and detained the participants. It is reported that all but the two named men have been released. Dr. Ali Ahmed Daoud and Ali Hussain Dossa are reported to have been severely tortured, and have not had had access to a lawyer. It is reported that they have been charged with spying for the Sudan Liberation Army, a charge which carries the death penalty.

1648. 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, Special Rapporteur on the right to health, and the Special Rapporteur on violence against women, regarding allegations of civilians killed, women raped and dozens of villages burned by Janjaweed militias in Darfur in the last few weeks. The incidents are said to be continuing. During an attack by the Janjaweed militia on at least 10 villages in the Tawila district between Kabkabiya and al-Fasher in Northern Darfur, between 27 and 29 February 2004, more than 80 people were killed and a number of school girls were raped. In February 2004, 27 girls from Kutum, Bindisi and Morny 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 attacked and killed two internally displaced persons (IDP) in Um Khair village 54km west of Garsilla, South Darfur. On 1 March, Janjaweed militia allegedly attacked Dagarais village, 34km west of Nylala, South Darfur, and killed 22 villagers and injured 30. On 3 March, Janjaweed militia attacked four villages near Deleij, 64km southwest of Zalingei, South Darfur and killed two civilians. All the villages were burned and an unknown number of cattle were looted. On 5 March, Janjaweed militias attacked the administrative unit of Mastri, 55km southwest of Al-Jeneina, North Darfur, and killed two villagers and injured one. In Western Darfur, on 6 March, 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 killed 15 villagers, including a child. On 7 March, about 400 Janjaweed militians allegedly attacked a village in Abu Ajura, Dagres, 45km southwest of Nyala, South Darfur and killed 20 villagers and injured 30. On 7 March, Janjaweed militia attacked Tulo and Arsonga, 4km west of Gemeiza and Kotinga, 73km north of Nyala, south Darfur, and killed two villagers and injured three. On 8 March, military planes bombed villages near Kidinir, east of the Meran mountains during which 13 women, 8 children and four men were killed. On 8 March, three children were among 12 people killed in 'Aish Barra, a village west of al-Jeneina, near the Chad border. On 12 March, Janjaweed militia attacked an IDP camp in Admata, near al-Jeneina, west Darfur and killed two IDPs. On 12 March, military planes bombed Sherya 70km east of Nyala, south Darfur, during which six women were killed and 25 persons injured. After the bombing, Janjaweed militia attacked the village and burned over 100 huts and stole 670 cattle. On 15 March, an unknown armed group 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. Diarrhoea and fever are rife and five to ten 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 looted during such raids in the past few months. On 7 March, 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, Janjaweed militia and government soldiers attacked Korma. 22 women were raped, several of whom were young, and a number of which were carried out in front of the families of the victims. The rape victims were abducted, 16 of whom were returned to the village a few days later. 48 people were killed, including several members of the Public Defense Force who had surrendered their weapons. Unspecified numbers of men and boys were abducted and forced to herd looted livestock. Some of the men were severely beaten during the process. On the second day of the attack a government military helicopter arrived to re-supply the attackers with ammunition and evacuated Janjaweed militia casualties. A second attack took place on 21 March during which the market was burned and eight more people were killed. The perpetrators in this instance were of the "Goran" tribe, Janjaweed, or both. The government is supporting the actions of the Janjaweed in order to pursue a strategy of forced displacement of the populations of the region. The Janjaweed are accompanied by soldiers, and that some of the attacks have been by the Janjaweed wearing army uniforms. In the past year no member of the Janjaweed has been arrested or prosecuted for participation in the attacks.

1649. On 5 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 the independence of judges and lawyers, the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Baroud Sandal Ragab**, **Ismail Oman**, **Mohamed Haroun**, **Mohamed Sharief Ali** and **Abdalla Aldoma**, all lawyers. According to the allegations received, they were arrested on 19 March 2004 in Khartoum, and are being held incommunicado in a special section of Kober Prison.

1650. On 5 April 2004, the Special Rapporteur sent an urgent appeal concerning **Hassan Sati**, **Dr. al-Haj Adam**, **Dr. Bashir Rahma**, **Dr. Adam al-Tahir Hamdoun**, **Suleiman Sandal**, **Muhammad Ahmad Dahab**, **Ahmad Fadl**, **Dr. Hassan al-Turabi**, all senior officials from the Popular Congress party, and about **15 others**, including army officers. According to the allegations received, they were arrested on 30 March 2004, and are being held incommunicado at Kober Prison.

1651. On 15 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers, regarding **Mahmoud Yahya Adam**, 19 years old, **Yahya Al-Doum Haroun**, 23 years old, **Idris Ibrahim Idris**, 26 years old, all farmers from Silaya village, and **Abdel Karim Abdallah Adam**, a 28 year-old man from Jiway. According to the allegations received, they were arrested by police on 29 March 2004 in Jiway, Khina village, 80km east of Nyala. On 3 April 2004, they were convicted of armed

robbery and sentenced to amputation of the right hand and left foot by the Nyala Specialized Criminal Court. The men were subjected to torture in police custody. The four men did not have access to a lawyer before or during their trial. The four men have lodged an appeal.

1652. On 11 May 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Ahmad Abdel Hamid Mohammad Mustafa**, a bank employee at the Faisal Islamic Bank. According to the allegations received, on 4 May 2004, he was arrested at his house in Nyala by the Security and Intelligence Agency. The next day he was transferred to the security centre in al-Fasher, where he is held incommunicado.

1653. On 12 May 2004, the Special Rapporteur sent a joint urgent appeal with Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Nureddin Mohammad Abdel Rahim**, *omda*, or mayor, of Shoba, and **Bahr al-Din Abdullah Rifah**, *omda* of Jabalsi. According to the allegations received, on 9 May 2004, the two men were arrested in the street in Kabkabiya, North Darfur State, after a meeting called by the International Committee of the Red Cross. It is reported that they had provided information on human rights violations by government-supported militia in the region, including information on burnt villages, killings and mass graves. It is alleged that the men are held incommunicado.

1654. By letter dated 21 July 2004, the Government informed that Nureddin Mohammam Abdel Rahim and Bahr al-Din Abdullah Rifah were interrogated by security officers in Kabkabiya on 9 May 2004 in connection with spreading false news about the existence of mass graves in the area. Bahr al-Din Abdullah Rifah was released on the same day, while Nureddin Mohammam Abdel Rahim was released on 11 May.

1655. On 25 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 the the right to freedom of opinion and expression, regarding Dr. **Ashaq Hussein Jammih**, **Mohamed Ishaq Adam**, a taxi driver, and **Adam Badawi Youseif**, a market-trader, all from Al-Fasher; and **Abdel Rahman Adam Abbow** and Dr. **Ishag Sabeel**, from Nyala. According to the allegations received, Ashaq Hussein Jammih was arrested on 15 June 2004 at his house, for his suspected membership of the Popular National Congress (PNC). Mohamed Ishaq Adam and Adam Badawi Youseif were arrested on 19 June 2004 for their suspected support of the rebellion in Darfur. All three men are detained in the security forces offices in Al-Fasher and no official charges were brought against them. On 18 June 2004, in Nyala, **Abdel Rahman Adam Abbow** and Dr. **Ishag Sabeel** were arrested by the security forces for their suspected support of the armed opposition, and transferred to the security forces offices. No official charges were brought against them and they have been refused visits.

1656. By letter dated 21 July 2004, the Government informed that Ashaq Hussein Jammih was detained by National Security personnel for interrogation into his suspected role in assisting rebels, is still under arrest and has been treated humanely. Mohammed Ishaq Adam was detained for his role in supporting the rebellion movement in Darfur and was released

after the investigations were completed. Abdel Rahmen Adam Abbow was detained and released after three days and was treated humanely.

1657. On 8 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Babikir Abdel Rasoul**, a merchant, and **Ali Mohamed Adam**, a farmer, both from Bouram; and **Adam Hassan**, a merchant, **Adam Mahmoud Neddi**, a merchant, **Mustafa Bilal**, a merchant, **Dahub Joumaa Sinja**, a lorry driver, and **Moudathir Mohamed Zain**, Mr. Dahub's assistant, all from Nyala. According to the allegations received, the men were arrested on 12 June 2004 by the military intelligence and armed forces in Bouram Town, Southern Darfur State, on suspicion of joining the armed opposition. Following their arrest, the 7 men were detained in Bouram for 14 days. There, the seven men were beaten with sticks on their hands and flogged with "Sots" (leather whips). On 26 June 2004, they were all transferred to the Nyala Wasat Police Station, where they are currently being detained with no official charges against them.

1658. On 21 July 2004, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on the situation of human rights defenders, regarding the situation of **Salih Mahmoud Osman**, a Human Rights lawyer with the Sudan Organization Against Torture (SOAT) (cited in a previously transmitted communication, sent on 4th February 2004 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the right to freedom of opinion and expression and Special Representative of the Secretary-General on the situation of human rights defenders). According to the allegations received, on 1 February 2004, he was arrested by members of the National Security Agency (NSA) at his home in Wad-Madani. He has been held in incommunicado detention since then and that no official charge has been brought against him. On 30th June 2004 Salih Mahmoud Osman began a hunger strike in protest against his detention. He was suffering from jaundice at the time of his arrest as well as from diabetes and high blood pressure.

1659. On 6 August 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the rights to adequate housing, concerning regarding **Abdella Bashir**, age 23, **Abdel Wahab Abdel Rahman Adam**, age 30, **Adam Mahadi Mohamed Ahmed**, age 23, **Malik Mansour Mohamed Bakhit**, age 20, **Abu Algasim Mohamed Ibrahim**, age 21, **Abdella Ibrahim Mango**, age 28, **Yaseen Mohamed Arabi**, age 22, **Suleiman Musa Mohamed**, age 23, **Saif Aldin Salih Adam**, age 21, **Mohamed Adam Abdella**, age 22, **Abdella Osman Mohamed Salih**, age 23, **Abbas Omer Ishag**, age 22, **Mohamed Abaker Jali**, age 23, **Izzeldin Abdella Ali**, age 23, **Mahmoud Mohamed Salih**, age 22, **Baher Aldin Bashir Sharief**, age 22, **Adam Abdel Rahman Suleiman**, age 22, **Gamer Aldin Mohamed Ibrahim**, age 22, **Yousif Abdella Omer**, age 22, **Abdella Yousif Tijani**, age 27, **Mustafa Ahmed Jabralla**, age 19, and **Nour Aldin Babiker Hassan**, all Internally Displaced Persons (IDPs) at the Kalma refugee camp, located 17km east of Nyala, Southern Darfur State. According to the allegations received, they were arrested after disturbances at the Kalma camp following the resistance of the IDPs to the Government's attempts to return them to their villages. Security officers restored order to the Camp and arrested 22 individuals who were accused to be leaders of the camp. Initially the 22 individuals were taken to the security office in Nyala and detained for one day. On 1 August 2004 the detainees were transferred to Nyala Wasat police station and on the 2 August the 22 individuals were officially charged by

the National Security Agency for causing a "public nuisance and disturbance". Their trial began on the same morning at the Nyala Criminal Court, and they were allowed to be represented by two lawyers. At the end of the session, they were taken to Nyala General Prison. The next session is to be held on 7 August 2004. The detainees alleged that they were beaten with sticks on their arms, heads, ears, backs and all over their bodies, in order to extract confessions that they caused the disturbances at the camp. The court accepted the request for medical examinations, and a medical application form has been issued by the police to send them to the hospital to confirm the injuries and to receive medical treatment.

1660. On 10 August 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Yaqub Khater**, omda (community leader) of Abu Jereda, **Ahmed Suleiman**, omda in Kabkabiya, **Khidder Ahmed Abdel Rahman**, omda in Kabkabiya, **Sabri Adam Nurein**, **Hamad Siddiq**, **Maryam**, **Siddiq Abdallah Abdallah**, and **40 other men**. According to the allegations received, forty-seven people from North Darfur State, including these seven persons, were arrested between 26 June and 3 August after they spoke to members of the African Union Ceasefire Commission (CFC) and foreign government delegations about the situation of displaced people or about human rights violations in Darfur. Yaqub Khater and five other men were arrested on 15 and 17 July after they talked to members of the CFC in Abu Jereda village, 7km south of the town of al-Fasher. Ahmed Suleiman and Khidder Ahmed Abdel Rahman were arrested in Kabkabiya and are now held by the Janjaweed militias. Sabri Adam Nurein, Hamad Siddiq, Siddiq Abdallah Abdallah and Maryam were arrested on 3 August in the town of Mellit, apparently after talking to the CFC. The Ceasefire Commission has apparently tried to visit those who have been arrested, but has not been allowed to see them. Moreover fifteen men were reportedly arrested in Abu Shawq camp, near al-Fasher, following the visit of the United States of America Secretary of State to the camp on 30 June. Five men were arrested at the same camp after a visit by a delegation from the French Foreign Ministry on 27 July. They are all believed to be held incommunicado.

1661. On 18 August 2004, the Special Rapporteur sent an urgent appeal, concerning **Abdel Salam Mohamed**, age 25, **Ali Alnour Ahmed**, age 24, **Salah Aldin Babiker**, age 18, **Joumaa Adam Haggar**, age 18, and **Adam Adam**, age 19. They are Internally Displaced Persons (IDPs) at the Kalma refugee camp, 17km east of Nyala, Southern Darfur State. According to the allegations received, on 3 August 2004, they were arrested by the National Security Agency (NSA), detained for two days in the security offices in Nyala, and transferred on 5 August to the Nyala prison. At the security offices, the men were beaten by the security officers with sticks and water pipes on the heads and legs, and flogged with a leather whip on their backs. They were denied medical treatment when they were transferred to the prison. They are accused of accused of attacking the office of the camp's Humanitarian Aid Commissioner and injuring a policeman. Their trial began, which began on 16 August at the Nyala Criminal Court is expected to resume on 19 August.

1662. Information has also been received concerning **Ayman Ahmed Adam**, **Abdel Kareem Adam Adam**, **Adam Yahya Mohamed**, **Yagoub Abdella Mohamed**, **Jafer Yousif Adam**, **Mohamed Musa Mohamed Abaker**, **Hussein Jafer Saif Aldean**, **Abdella Abaker Osman**, **Adam Abdella Alsadig**, **Ismail Yousif Ismail**, **Faisal Abdel Razig Mohamed**, **Adam Mohamed Hussein**, **Suleiman Baher Adam**, **Ishag Mohamed Alhaj**, **Ibrahim Haroun Abaker**, **Yagoub Abdella Ali**, **Musa Ahmed Haroun**, **Habib Ishag Alzein**, **Nour**

Alden Adam Alnour, **Baraka Musa Salih**, **Adam Hassan Abdel Rahman**, **Amir Eltayeb Sharef Aldin**, **Abdeen Jibreal Ibrahim**, **Osman Ibrahim Abdella**, **Moutasim Suleiman Issa**, **Ali Mohamed Ishag**, **Mohamed Abdel Rahman Abdel Aziz**, **Ismail Haroun Abdella**, **Eltayeb Mohamed Adam**, **Adam Abdel Rahman Ahmed**, **Issa Adam Arja**, **Abdel Majid Abaker Mohamed**, **Mohamed Abdel Rahman Ibrahim**, **Mohamed Abaker Mohamed**, **Abdel Shakour Abdella Yahya**, **Alsadig Hassan Mohamed**, **Hashim Musa Yagoub, Mohamed Yagoub Zayid, Hassan Ibrahim Abdel Karim**, **Ismail Abaker Abdel Rasoul**, **Anwar Issa Abdel Shafi**, **Mohamed Abaker Degais, Mohamed Nour Aldin Ishag**, **Mohamed Saead Hussein**, **Ahmed Yahya Adam**, **Ahmed Adam Idris**, **Issa Ishag Yagoub**, **Abdel Malik Suleiman Abdella**, **Yahya Musa Yahya**, and **Anwar Alnour Yousif**. They also are IDPs at the Kalma refugee camp. According to the allegations received, on 15 August 2004 they were arrested by security forces and detained until 16 August before being transferred to the Nyala Wasat Police Station. During their arrest they were beaten with sticks and hands and flogged on their backs and shoulders to confess that they encourage the IDPs in the camp to refuse to return to their villages. Their trial began on 16 August at the Nyala Criminal Court where they were charged with public nuisance and disturbance. On 17 August 2004, the Public Order Court in Nyala sentenced them to one month imprisonment and 20,000 Sudanese Dinars (US$70).

1663. On 6 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders, regarding Mr. **Faisal Dawood Abd Alrahman**, 26 years old, a fourth year economics student and Mr. **Abd Alrahman Mohamed Abd Alrahman** 27 years old, an Arts Faculty student, respectively Secretary-General and Chairperson of the Darfur Student Association at the University of Khartoum. According to the allegations received, both were arrested on 23 September 2004 at 11am by eight officers from the National Security Agency (NSA) within the premises of the University of Khartoum and taken to the NSA political section offices in the North of Khartoum (near Shandi Bus Station). While detained there, they were beaten and punched all over their bodies for an hour. They were questioned about the activities of the Darfur Student Organization. Mr. Abd Alrahman Mohamed Abd Alrahman was released on 24 September 2004 at 4 pm. while Mr. Faisal Dawood Abd Alrahman is believed to be still detained, his whereabouts remaining undisclosed.

1664. On 12 October 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding Mr. **Adib Abdel Rahman Yusuf**, of the Sudan Social Development Organization (SUDO) in Zalingei, West Darfur State. According to the allegations received, on 10 September 2004, he was arrested in Khartoum by National Security and Intelligence Agency officers. He is currently held incommunicado at the political section of the National Security and Intelligence Agency in Khartoum.

1665. 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 violence against women, regarding Ms. **Zubaida Rabih Abdallah**, a 35 years old well-known woman activist, Ga'ar Alhajar Neighbourhood, Kadogli City, Southern

Kurdufan State. According to the allegations 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, Ms. Zubaida Rabih Abdallah was beaten with sticks on her shoulder, her fingers were twisted and she was kicked in her lower abdomen. Moreover, she was sexually harassed and one officer tried to remove her clothing. On 6 August 2004, she was transferred to Kadogli hospital and admitted there for nine days. During her hospitalization, she was handcuffed and tied to her hospital bed. On 15 August, Ms. Zubaida Rabih Abdallah was discharged from Kadogli hospital and returned into NSA custody. She has been charged with the publication of false news, among other things.

1666. On 22 October 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding Mr. **Mansour Mohamed Alzubair**, age 27, Mr. **Abdelhafeez Mohamed Alzubair**, age 29, both students of Omdurman Islamic University, Mr. **Ibn Omer Abdel-latif Mohamed Madani**, a 26 year-old student at the Holy Quran University (Alquraan al-Kareem) and General Secretary of the Jabal Marra Students Association at the Universities in Khartoum, Mr. **Abdelrasoul Mohamed Sulaiman**, a trader at the Omdurman market, **Gafar Abakar**, a mechanic, and Mr. **Mahmoud Mohamed Adam Gummaa**. According to the allegations received, on 11 October 2004 at 4am, security personnel from the Political Section of the National Security Services (NSA) arrested Mansour Mohamed Alzubair, Abdelhafeez Mohamed Alzubair, and Abdelrasoul Mohamed Sulaiman together with Mr. Ibn Omer Abdel-latif Mohamed Madani. The arrest took place at the house of relatives of Mr. Ibn Omer Abdel-latif Mohamed Madani. The four men were taken to the NSA political section offices at Khartoum North (near Shandi Bus Station). They were detained together with other men originating from Darfur, among them Gafar Abakar and Mahmoud Mohamed Adam Gummaa. In detention Mr. Ibn Omer Abdel-latif was heavily beaten on different parts of his body by the NSA officials. He was made to stand against the wall with his hands raised for several hours at a time. As a result of the treatment, he is suffering from haematuria (appearance of blood in the urine). He was interrogated about persons from his tribe, the Fur. Mr. Ibn Omer Abdel-latif was released on 13 October 2004. Mansour Mohamed Alzubair, Abdelhafeez Mohamed Alzubair, and Abdelrasoul Mohamed Sulaiman remain in detention and are facing no official charges.

1667. On 27 October 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **M. M. A. H.**, age 15, **H. A. M. A.**, age 17, **Yagoub Abdella Yagoub**, age 18, and **Musa Ahmed Mohamed Kamees**, age 32, all persons from the Birgid tribe and resident in Janjonat. According to the allegations received, on 6 October 2004, the armed forces and the military intelligence arrested the four persons from a place between Janjonat and Labanti villages, near Doumma, 12km north of Nyala. They were initially taken to the military intelligence offices in Nyala and detained there for four days. Then they were moved to Nyala Central (Wasat) Police Station and remained there for seven days. The four persons are currently detained in Nyala Prison. They were beaten with sticks and kicked with boots on their heads and all over their bodies. They were beaten to extract confessions and interrogated about their involvement with the Sudan Liberation Army (SLA). All four are charged with joining the SLA and committing crimes against the state, among other things. They have been visited by lawyers who have submitted an application on 26 October 2004 to the Attorney General requesting a medical examination of the detainees.

1668. Allegations have also been received concerning **A. A. O.**, age 17, from the Massalit tribe, Baker, Hey Karari, Nyala. According to the allegations received, on 28 May 2004, he was arrested by the military intelligence from his house and detained for four days in military custody. He was beaten by the interrogators with their hands, kicked with boots and whipped with a "Sot". He was then transferred to police custody and charged with murder, which carries the death penalty. The first session of his case will be held on 9 November 2004.

1669. 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 violence against women, 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 5am, 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 UN 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.

1670. 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, the Special Rapporteur on the sale of children, child prostitution and child pornography, and the Special Rapporteur on violence against women, regarding 13 internally displaced women and girls from Kalma camp, **A. I. A.**, age 14, **F. Y. M.**, age 16, **M. I. A. A.**, age 17, **Z. S. A. R.**, age 15, **Amna Mohamed Ishag**, **Aisha Shareef Aldeain**, **Fatima Yahya Nour**, age 60, **Fatima Yagoub Mohamed**, age 25 , **Fatima Abdel Rahman**, age 50, **Hawa Abdella Adam**, age 35, **Soumaya Hassan**, age 18, **Hehla Abu Jabe**, age 25, and **Halima Arbab Abd al-Rahman**. According to the allegations received, on 2 November 2004, they were kidnapped whilst they were collecting fire wood outside the camp. It is believed that the kidnappers belong to the Janjaweed militias.

Follow-up to previously transmitted communications

1671. By letter dated 22 March 2004, the Government provided information concerning **Abbas El Tigani** and **Gamar Eldin Mohammed Eisa**, (E/CN.4/2004/56/Add.1, para. 1613). The Government informed that throughout their detention, both students were treated in a manner consistent with the preservation of their dignity and in accordance with the law. They were released following the completion of the requisite formalities. They have not exhausted the domestic means of recourse available to them under Sudanese law.

1672. By letter dated 22 March 2004, the Government provided information concerning **Hana Mohamed Ali**, **Mawahib Ali**, **Huda Da'wood**, **Intisar Abdel Rahman Fadl**, **Mohamed Al Hassan Rahma**, **Hassan Harri**, **Mohammed Ahmed Khalid**, **Da'wood Abdel Rhaman**, **Abdel Azim Daw El Beit**, **Ashraf Alhilo**, **Haythem Samba**, **El Tayeb**, **Tagelsir**, **Al Noor**, **Um Al Hassan Sharoofa**

and **Asha Sharoofa** (E/CN.4/2004/56/Add.1, para. 1603). The Government informed that on 1 May 2003, they and others burned down the premises occupied by the Student Support Fund. In order to protect the State's institutions, the police, using tear gas, mounted a counter-attack against the students responsible for the act of sabotage. During the attack, some female students fainted and were taken away in ambulances to Zalingei Hospital. The police arrested the students, together with those who had carried out the sabotage, and filed reports against them, which they forwarded to the Department of Public Prosecutions. Throughout the period in which they remained under police arrest, the students were treated in a manner consistent with the preservation of their dignity and in accordance with the law. Contrary to the allegation in the appeal, none of the students were detained by the national security forces in Zalingei. All the students were released after the completion of the legal formalities. These persons have not exhausted the domestic means of recourse available to them under Sudanese law. No complaints were filed.

1673. By letter dated 23 March 2004, the Government provided further information concerning **Gazi Suliman** (E/CN.4/2004/56/Add.1, para. 1616, 1617). The Government informed that he was treated in a manner consistent with the preservation of his dignity and in accordance with the law. Gazi Suliman has not exhausted the domestic means of recourse available to him under Sudanese law. Not complaints were filed.

1674. By letter dated 23 March 2004, the Government provided information concerning **El Fadil Adam Mohammed Ahmed Noorein** (E/CN.4/2004/56/Add.1, para. 1622). The Government informed that throughout his detention he was treated in a manner consistent with the preservation of his dignity and in accordance with the law, the Constitution and international standards. Fadil Noorein's release was effected in the context of the implementation of the Abbachi Agreement signed by the Government and a number of Darfur rebels. He has not exhausted the domestic means of recourse.

1675. By letter dated 23 March 2004, the Government provided information concerning **Michael Kustober** (E/CN.4/2004/56/Add.1, para. 1626). The Government informed that a criminal case was brought against him for biting a university security guard, and he was sentenced to a term of one month in prison. Michael Kustober was released in April 2003 after the university applied for a pardon on his behalf. The security forces did not arrest the students **Hamdi Sebit** and **Mohammed Ibrahim** (ibid). As for the rest of the students referred to, they were not placed in custody as alleged. The students have not exhausted the domestic means of recourse available under Sudanese law. No complaints were filed.

1676. By letter dated 23 March 2004, the Government provided information concerning **Hassan Omer Abu-Al Reish** (E/CN.4/2002/76/Add.1, para. 1545). The Government informed that following his arrest on 16 March 2001, the officer-in-charge of the security unit was informed that Hassan Omer Abu-Al Reish had fever and was vomiting, and he was sent to Kosti Hospital for treatment. Next morning, the hospital surgeon indicated that he needed an appendectomy, and his relatives were informed. The diagnosis was that Hassan Omer Abu-Al Reish was suffering from chronic malaria or bilharzia. The doctor denied that he was subjected to torture or beating. There was no bleeding or traces of beatings. After surgery on 18 March 2001, Hassan Omer Abu-Al Reish stayed in the hospital for 10 days, after which he was released and went home. At the end of May 2001, Hassan Omer Abu-Al Reish became ill

with malaria, was taken to Sahiroon Hospital in Khartoum, where he stayed until his death on 12 June 2001. The hospital medical report stated that his death was due to malaria.

1677. By letter dated 23 March 2004, the Government provided information concerning **Alnour Ahmed Mohamed Ali** (E/CN.4/2001/66, para. 1008). The Government informed that this person was a student doing his national service who had been assigned to the National Security Service. He was not arrested, as the appeal alleges, nor was he subjected to any form of torture or ill-treatment. On the day of the incident, he entered the premises of the Internal Security Service carrying a sword. A guard at the entrance tried to elude him by running away, even though the guard was armed. However, Mr. Ali gave chase and the guard took refuge behind a parked car, which he circled three times. Mr. Ali, who was very agitated, continued to pursue the guard and lie nearly struck him with the sword. The guard who killed the deceased tried to react without hurting the victim, as witnessed by the 12 shots that he fired at the wall. When the guard realized the gravity of the situation, he used his weapon in self-defence and killed Mr. Ali. The Department of Public Prosecutions followed the prescribed legal procedures, taking statements from the relatives of the deceased, whom they described as suffering from a mental illness. Statements were also taken from the guard and from a number of witnesses who had been on the scene at the time. The Department of Public Prosecutions decided to take no further action. That decision was supported by the Director of the Department of Public Prosecutions, and, later, by the Attorney-General. A large number of lawyers for the victim were involved in the proceedings. None of these lawyers appealed the Attorney-General's decision to drop proceedings.

1678. By letter dated 23 March 2004, the Government provided information concerning **Osman Ahmed Fagharay** (E/CN.4/2004/56/Add.1, para. 1641). The Government informed that he was released after the requisite formalities had been completed. He had been allowed to receive a number of visits, had been examined by a doctor and had received medical treatment. He has not exhausted the domestic remedies available to him under Sudanese law.

1679. By letter dated 23 March 2004, the Government provided information concerning **Ahmed Da'wah Al Bayt Ahmed** (E/CN.4/2004/56/Add.1, para. 1606-1607). The Government informed that throughout the time that he was under arrest, this person was treated in a manner consistent with the preservation of his dignity and in accordance with the law. He was released on 18 May 2003 after the legal formalities had been completed. He has not exhausted the domestic remedies available to him under Sudanese law. No complaints were filed.

1680. By letter dated 21 July 2004, the Government provided information concerning **Abdel Aziz Abdul Kader**, teacher, **Mahdi Yaqub**, teacher, **Ahmed Abdul Rahman**, teacher, **Adam Hussain Mohammed Fadil**, Omda (community leader), **Adam Saleh**, Omda, **Musa Mohammed**, Omda, **Al-Haj Tirab Mahmoud**, doctor, **Mohamed Osman Al-Basha**, **Adam Dau Al-Beit Tur**, **Ali Musa Bakara**, as well as **14 other men**, (E/CN.4/2004/56/Add.1, para. 1630). The Government informed that the people mentioned have never been arrested.

Observations

1681. The Special Rapporteur draws attention to a statement, issued on 26 March 2004, jointly with the Special Rapporteurs on violence against women, the right to health, racism, extrajudicial, summary or arbitrary executions, on the sale of children, child prostitution and child pornography, and the right to food, and the Special Representative of the Secretary-General on internally displaced persons. The experts expressed grave concern at the scale of reported human rights abuses and the humanitarian crisis in Darfur, Sudan: large-scale population displacements, killings of civilians, attacks against refugees and displaced persons, rape, abductions of children, and destruction of villages, by militias.

Swaziland

1682. By letter dated 30 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Mandlenkhosi Ngubeni**, aged 31. On 21 May 2004 at 4 pm, he was arrested at his place of work in Matsapha by police officers in connection with a theft inquiry, and taken to the Matsapha police station. The following afternoon, his family was alerted by a friend that he was dead and his body was lying in a funeral parlour. The family noted that there were visible injuries on his body. They were not officially informed by the police until 23 May of his death. They were told that he had died at 4am on 22 May. The police initially claimed that he died of natural causes, however, the Deputy Commissioner of Police called for a special team to conduct the investigation. The State pathologist conducted a post-mortem on 27 May, and the family has instituted civil legal proceedings against the police.

Sweden

1683. On 25 November 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning Ms. **Parvin Solaimanpoor**, aged 54, a citizen of the Islamic Republic of Iran of Kurdish origin. According to the allegations received, she is at imminent risk of forcible return to the Islamic Republic of Iran, following the rejection of her asylum request. She is reportedly a Komala party activist, who carried out propaganda against the Government of the Islamic Republic of Iran. Her husband, who was also politically active, was murdered. One of her sons is currently detained in Iran, while another is detained in Greece. It is reported that in Sweden, Parvin Solaimanpoor has continued her political activism against the Government of the Islamic Republic of Iran, including statements in the press and radio.

1684. By letter dated 2 December 2004, the Government informed that she applied for asylum on 20 July 2001. The Migration Board decided not to grant her residence in Sweden and ordered her expulsion. The Aliens Apeals Board rejected her appeals on 5 August 2004 and 11 November 2004. The Board came to the conclusion that she is not in need of protection in Sweden, that an enforcement order can take place without risk and that there are no grounds for believing that she would be exposed to torture or other forms of ill-treatment if she were returned. The Government has no competence to overturn this assessment.

Switzerland

1685. Par lettre en date du 6 août 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, a informé le Gouvernement qu'il avait reçu des renseignements concernant Mme **Warsan Mohamed-Ismail**, née le 3 mars 1969, de nationalité somalienne, résidant 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 des Pâquis, place de la Navigation, auraient arrêté Mme Mohamed-Ismail qui se trouvait à la banque et l'auraient conduite au poste de police des Pâquis, rue de Berne. Mme Mohamed-Ismail aurait subi une agression physique de la part des deux policiers, qui l'auraient aussi insultée et lui auraient demandé de quitter la Suisse. Un certificat médical du 15 juillet 2004, dont les Rapporteurs spéciaux ont reçu copie, établit que Mme Mohamed-Ismail souffre de contusions avec dermabrasions de la face (front gauche, tempe gauche) et présente un syndrome de la charnière dorsolombaire. Suite à cet incident, une plainte aurait été déposée par son avocat.

1686. Par lettre 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 Mme Mohamed-Ismail, le Gouvernement a répondu que les gendarmes avaient fait un usage proportionné et modéré de la contrainte envers Mme Mohamed-Ismail qui n'a pas été blessée, ni ne s'est manifestée pour se plaindre de mauvais traitements.

Syrian Arab Republic

1687. By letter dated 22 November 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning:

1688. **Ahmad Ma'mu Kenjo**, a 37 year-old Kurd. He was arrested in March 2004, detained incommunicado at an unknown location in Ras al-'Ayn, north-eastern Syria during April and May. He suffered a head wound, perpetrated by officers of Military Intelligence (al-Mukhabarat al-'Askariya) or of Political Security (al-Amn al-Siyassi) directorates. It was said to have caused severe head pains and serious brain damage, and he was released as a result. He died at home on 3 August. It is believed that Ahmad Ma'mu Kenjo was never charged with an offence.

1689. **Ahmad Husayn Hasan** (named in some reports as Ahmad Husayn Husayn), al-Malikiye, near the borders with Iraq and Turkey.

1690. He had been detained incommunicado since his arrest on 13 July 2004, and died in custody on 1 or 2 August 2004, due to torture at the Military Intelligence Branch, al-Hasaka. Military Intelligence officers told Ahmad Husayn Hasan's family that his body was buried at Tel Ma'teb cemetery, without allowing anyone to see the body or to have a post-mortem conducted. It is believed that Ahmad Husayn Hasan was never charged with an offence.

Urgent appeals

1691. On 15 January 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding **Mohammad Mustafa**, **Khaled Ahmed 'Ali**, **Sherif Ramadhan**, **'Amr Mourad**, **Salar Saleh**, **Hosam Mohammad Amin**, **Husayn Ramadhan** and **Mas'ud Hamid** (cited in previously transmitted communications, E/CN.4/2004/56/Add.1, para. 1662, 1663, 1668, 1669). According to the allegations received, the eight men have been beaten up and ill-treated in detention at the 'Adra prison outside Damascus, and that seven of them are held in cells of 1m x 1.5m, while Mohammad Mustafa, a lawyer, is being held in a cell which is said to be a toilet of 80cm x 80cm. These persons were scheduled to appear before the Supreme State Security Court (SSSC), on 11 January 2004, and, although it is not clear on what charges they will be tried, fears have been expressed that they might be sentenced to extremely heavy prison terms. Reports also indicate that **Hassan Saleh**, 61 year-old, and **Marwan 'Uthman**, have been held incommunicado at the 'Adra prison since 15 December 2002, five days after participating in a peaceful demonstration in Damascus that called for greater protection for the rights of Syrian Kurds. They have been denied visits by lawyers, relatives and doctors. Further reports indicate that **Fateh Jamus** and **Safwan 'Akkash**, both members of the Party for Communist Action, **'Abd al-Ghani Bakri**, **Hazim 'Ajaj al-Aghra'i**, **Muhammad Deeb Kor**, **'Abd al-Jawwad al-Saleh**, **Hashem al-Hashem**, **Yassar Qaddur**, **Zaradesht Muhammad**, **Rashid Sha'ban**, **Fuad Bawadqji**, **Ghazi Mustafa**, **Najib Dedem** and **Samir 'Abd al-Karim Nashar**, who were arrested by the police on 23 August 2003 as they were heading for a lecture on "the state of emergency" imposed by the authorities in Syria since 1963, were scheduled to be tried on 20 December 2003. The 14 men were charged with "affiliation to a secret organization and carrying out acts that could incite factional conflict within the nation". Finally, reports indicate that **Idris 'Abdel Hamid**, was arrested on 21 December 2003 for participating in a demonstration outside the Aleppo Military Court, in support of the 14 men mentioned above. Idris 'Abdel Hamid is being held in incommunicado detention at an unknown location.

1692. By letter dated 22 January 2004, the Government indicated that they had already responded to the allegations concerning **Hassan Saleh** and **Marwan 'Uthman** (E/CN.4/2004/56/Add.1, para. 1656); and **Mohammad Mustafa**, **Khaled Ahmed 'Ali**, **Sherif Ramadhan**, **'Amr Mourad**, **Salar Saleh**, **Hosam Mohammad Amin**, **Husayn Ramadhan** and **Mas'ud Hamid** (ibid, para. 1663 and 1669).

1693. By letter dated 12 July 2004, the Government informed that Mohammed Mustafa, Khaled Ahmed `Ali, Sherif Ramadhan, `Amr Mourad, Salar Saleh, Hosam Mohammed Amin, Husayn Ramadhan and Mas`ud Hamid were arrested for taking part in an unlawful demonstration in the city of Damascus and were referred for trial. As for Hassan Saleh and Marwan `Uthman, they were released by the courts on 24 February 2004. With regard to Fateh Jamus, Safwan `Akkash, `Abd al-Ghani Bakri, Hazim `Ajaj al-Aghra`i, Mohammed Deeb Kor, `Abd al-Jawwad Saleh, Hashem al-Hasem, Yasser Qaddur, Zaradesht Muhammad, Rashid Sha`ban, Fuad Bawadqji, Ghazi Mustafa, Najib Dedem and Samir `Abd al-Karim Nashar, none of these persons are in detention. It should be noted that detainees are subject to prevailing prison regulations and are provided with food and health care. They also receive regular family visits.

1694. On 11 February 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Mu'eyna Muhammad Yusef Sa'adu**, age 50. According to the allegations received, Mu'eyna Muhammad Yusef Sa'adu has been held incommunicado since 14 January 2004, when she was arrested by military security officers as she re-entered Syria after 24 years in exile in Jordan. Two of her nine children were with her but were not detained. She was reportedly interrogated in several different places, and is now believed to be held at the Military Intelligence centre at al-Mezze, in Damascus. Her husband, Khaled al-Ra'ei, and three sons are reportedly members of the outlawed Muslim Brotherhood organisation. It is reported that she has a heart condition and requires medication and a special diet.

1695. By letter dated 5 April 2004, the Government informed that Mu'eyna Muhammad Yusef Sa'adu was released on 15 February 2004.

1696. On 17 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding **Massud Hamid** (cited in previously transmitted communications, E/CN.4/2004/56/Add.1, para. 1668, 1669, as well as para. X). According recent allegations received, he has been held in incommunicado detention since 24 July 2003 in Adra prison, near Damascus. The police arrested him on 24 July while he was writing an exam at Damascus University, one month after the photographs he took on 25 June of a Kurdish protest in front of UNICEF's Damascus offices, were posted on the Kurdish-language website, www.amude.com. Since his arrest, Mr. Hamid has not been allowed any visits in detention, apart from a 10-minute meeting with a member of his family. Reports suggest that he had been tortured in detention.

1697. By letter dated 10 May 2004, the Government informed that he has been brought to justice, and is awaiting trial.

1698. On 27 February 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 right to freedom of opinion and expression, regarding **'Abdel Rahman al-Shaghouri**. According to the allegations received, he was reportedly arrested at a checkpoint between Quneitra and Damascus on 23 February 2003, for his use of the internet to send articles to his friends. He was beaten in custody, before being transferred to Sednaya prison where he is said to be held incommunicado. It is reported that on 14 December 2003 he appeared before a state security court which set the next court session for March 2004.

1699. By letter dated 9 March 2004, the Government informed that information on this case was previously transmitted (i.e. E/CN.4/2004/56/Add.1, para. 1661, and para. X), and that any further information will be transmitted promptly.

1700. On 16 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 right to freedom of opinion and expression, regarding **Fahim Hassan Yusuf**, his son, **Jomard Fahim Yusuf**, **Hussain Muhammad Murad**, **Akram Muhammad Murad**, **Hassan Muhammad Murad**, **Khader Nawar Manja**, and **Zeres Nawar Manja**, Syrian Kurds. According to the allegations received, they were arrested at their homes on the morning of 9 March 2004, following Kurdish demonstrations in the northern cities of

Qamishli and al-Hassaka on 8 March to mark International Women's Day. Their whereabouts are unknown but it is believed they may be held in the custody of the Political Security Directorate in the northern city of al-Hassaka.

1701. On 18 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 right to freedom of opinion and expression, regarding reports of **mass arrests of Syrian Kurds**. According to the allegations received, the arrests followed clashes between rival Kurdish and Arab fans at a football match in Qamishli. The security forces opened fire into the crowd, killing between **19 and 22 Kurds**, and **three children** were trampled to death as the crowds tried to escape. Following this incident clashes between Syrian Kurds and Syrian security forces broke out in Qamishli, Allepo, al-Hassaka and Damascus. **Hundreds of Kurdish men**, and **boys as young as 14**, were detained. A number of those detained in unknown locations are reported to be Kurdish students at the University of Damascus, including **Fahima Asko**, **Sourya Amko**, **'Ali Huseini**, **Mizgin Huseini**, **Nasiba Huseini**, **Nizar Kousa**, **Jawdan Huseini**, **Jawan Hasse**, **Nawras Moura'i**, **Sipan Sayda**, **Sarteep Youssef**, and **Darchin Huchik**.

1702. By letter dated 16 September 2004, the Government informed that the arrests were made following disturbances that broke out in the governorate of Hassakah. The vast majority of those arrested, were released after questioning, while the remainder were referred to the competent court, under the laws on riotous assembly, sabotage and causing damage to public property, and were tried for committing acts of sabotage against public institutions and installations. None of the arrested persons was subjected to torture or ill-treatment, and they were all arrested, detained and tried in accordance with laws and regulations which do not conflictwith human rights.

1703. On 1 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding **Mohammed Ghanem**, a writer and journalist. According to the allegations received, he was arrested following the publication of his article on violent clashes between Kurds, Arab tribes and security forces in Qamishli. Mr.Ghanem's whereabouts are unknown.

1704. On 1 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 the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Hassan Watfi**, a 39 year-old human rights defender and an active member of the Syrian chapter of the Arab Organization for Human Rights (AOHR), Masiaf, outskirts of Hama, central Syria. According to the allegations received, on 16 March 2004, he was arrested by political security officers at his home. He is being held incommunicado at the Military Intelligence Centre in Damascus.

1705. On 13 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding at least **40 Syrian Kurds**, **including children**. According to the allegations received, they were killed, most of them by the security forces, since violent clashes at a 12 March football match. It is reported that on 13 March, police attacked mourners attending the funerals of those killed. This led to two days of protests in various towns in north-eastern Syria, including al-Malikiya, al-

Qahtaniya and ‘Amouda. In al-Malikiya the security forces fired at protesters who were throwing stones at the Military Intelligence and State Security buildings. Sixteen year-old **H. N.** and six year-old **B. S.** were shot dead. Protesters were also shot at and injured in al-Qahtaniya. Around 13 March, protesters beat up the head of the ‘Amouda police station, who later died of his injuries. Up to **2,500 Syrian Kurds**, including **M. J.**, age 16 from al-Qahtaniya, and other children, remain in detention since their arrest on 12 March. Although some 500 to 600 people were released around 19 March, the whereabouts of the rest of the detainees remain unknown, and some, including children, have been tortured. **K. M. R.**, age 17, was held for nine days, and subjected to electric shocks until he lost consciousness. **Moussa ‘Abdel Fatah Shaheen** had to be hospitalised after he was tortured in custody. Many of the injured are being held in detention in government hospitals.

1706. By letter dated 15 September 2004, the Government informed that the persons were arrested following disturbances that took place in the governorate of Hassakah. The vast majority of those arrested were released after questioning, while the remainder wre referred to the competent court. None of these persons was subjected to torture or ill-treatment and all the arrest, detention and trial procedures wee carried out in accordance with the due process of law, as defined in laws and regulations which do not conflict with human rights.

1707. On 15 April 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **N. S. M.**, **A. S. A.**, **W. M. S.**, **S. S.**, all Syrian-Kurdish school children age 12 to 13 years old. According to the allegations received, on 6 April 2004, the children were arrested by members of the political security department at al-Talane’ school, Qamishli. They were ill-treated during their arrest and taken to a detention centre in al-Hassaka, the exact location and conditions of which are unknown. It is unknown whether they have been charged with any offence or granted access to their families or lawyers.

1708. On 16 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 the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, concerning **Aktham Naisse,** head of the Committees for the Defence of Democratic Liberties and Human Rights (CDDLHR), which has been conducting a nationwide campaign for political reform and respect for human rights, and advocating for an end to the state of emergency in Syria (cited in previously transmitted communications, E/CN.4/2002/106, para. 334, and dated 16 February and 9 March 2004 by the Special Representative on human rights defenders and the Special Rapporteur on the right to freedom of opinion and expression). According to the allegations received, on 13 April 2004, after having being summoned, he was arrested when he presented himself at the department of military security in the city of Latakia. He is held incommunicado although the authorities there deny that he is in custody.

1709. On 27 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 the right to freedom of opinion and expression regarding **Muhannad al-Dabas**, **Wa’il ‘Azzuz**, **Shadi Abu-Fakhr**, **Dhahayr Abu-Latif**, **‘Umar ‘Abdalla**, **Khaled al-’Asrawi**, **Muhammad ‘Arab**, **Basil Dayyub**, **Mihyar Khashrum**, **Naser Babesni**, **Mustafa al-Yusuf**, **Moris ‘Ayiqq**, all students from the University of Damascus and

University of Aleppo. According to the allegations received, on 24 April 2004, the 12 students were arrested by the security forces in Damascus, and are held incommunicado at the Department of Political Security.

1710. On 11 June 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Akhtam Naisse** (cited in previously transmitted communications, para. 1707). According to the allegations received, on 22 April 2004, he was charged with 'carrying out activities contrary to the socialist system of the state and 'opposing the objectives of the revolution'. On 26 April, Akhtam Naisse appeared before the Supreme State Security Court (SSSC), where he was reportedly interrogated for two days regarding his human rights activities. He was ill-treated in prison, and as a result, suffered a stroke which left him partly paralyzed and unable to speak clearly. He has been denied medical care. A lawyer was present at the hearing to assist with the questioning, but, on seeing the condition of Aktham Naisse, refused to do so. He was then threatened that "he would be in Mr Naisses's place" if he did not cooperate. The outcome of the SSSC hearing has not been published, and Aktham Naisse continues to be denied legal representation, as well as visits from his family.

1711. By letter dated 20 September 2004, the Government informed that he was arrested on 13 April 2004. He was sent for trial before the Higher State Security Court for disseminating false and exaggerated reports likely to harm Syria's relations with neighbouring States, for circulating a petition calling for political reform in which fictitious names appeared or the names of well-known persons were used without their knowledge, and for founding an unauthorized secret association. The State Secuity Court held two sessions, the first on 26 July 2004 and the second on 16 August 2004, attended by a number of Syrian and Arab lawyers and representatives from the European Union and the United States embassies. At the second session, Akhtam Naisse was released on bail pending his trial, which was postponed until 24 October 2004. He confessed to the charges against him and made an apology.

1712. On 9 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding allegations received with respect to the following persons:

1713. **Anwar Badr al-Din**, **Ayham Ahmad 'Umran**, **Sari Muhyi al-Din Badr al-Din**, **Fadi Muhammad 'Abd al-Ghani**, **Usama Ahmad Atiyyah**, **Ahmad Dib al-Zayn**, **Rami Ahmad 'Arafa**, **Adkar Bundugji**, **Yahya Bundugj**, **Gasem Bundugj**, **Arshid al-Shaykh**, **Tareq Nadim Shehadah**, **Ibrahim Sabbura**, **Ahmad al-Shaykh**, and **'Umar Nader.** On 2 July 2004, they were arrested by military intelligence officers among an unspecified number of people during a night raid on homes in Qatnah on the outskirts of Damascus. Most of those who were arrested and subsequently detained incommunicado are secondary school students and are suspected of being Islamist fundamentalists.

1714. **Muhammad Ramiz Sultan**, a Lebanese national. On 7 June 2004, he was arrested by members of the Syrian security forces at the Syrian-Lebanese borders as he and his wife traveled to Syria for a holiday. Since his arrest, he has been held incommunicado at the Palestine Branch Detention Centre in Damascus.

1715. On 23 September 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **'Abd al-Salam Assaqqa**, age 45, a Syrian national residing in Jordan. According to the allegations received, on 27 August 2004, he and his wife and children, who had been visiting Syria, were stopped at the border as they attempted to re-enter Jordan. 'Abd al-Salam Assaqqa was asked to come to the Syrian side of the border to sign consent papers for the travel of his eight year-old son. However, when he arrived he was threatened by Syrian security forces, tried to flee back to the Jordanian side of the border, and was handed over to Syrian security officers. He was taken to the Military Intelligence Centre, Homs, where he is currently held incommunicado; he has not received any visits from his family, lawyers or doctors, nor has he been charged with any offence. In detention he has been repeatedly beaten on his feet, stomach, and all over his body with sticks and cables. He is reportedly in serious condition.

1716. On 29 September 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 the right to freedom of opinion and expression, concerning **Ayman Ardeli**, a 44 year-old Australian and Syrian nationalities. According to the allegations received, he is being held at the Palestine Branch (Far'Filisteen) of Military Intelligence in an overcrowded cell known as a "tomb" cell (i.e. measure 475cm by 475cm and houses between 20 and 60 people). He was arrested at Damascus Airport in August 2003, and initially detained at the Aleppo Branch of Military Intelligence, where he was subjected to torture and other forms of ill-treatment. He has been held incommunicado for more than one year without access to his family, a lawyer, or Consular officials. He is suffering from severe migraines, heart problems and high blood pressure. He is given local medicine, which is said to be inadequate for his condition.

Follow-up to previously transmitted communications

1717. By letter dated 20 January 2004, the Government provided information concerning **'Abdel Rahman Shaghouri** (E/CN.4/2004/56/Add.1, para. 1672. See also ibid, paras. 1660-1661). The Government informed that he is currently in prison awaiting trial, his case was referred to the Higher State Security Court on 30 June 2003. Moreover, it informed that he is not suffering any significant illnesses.

1718. By letter dated 20 January 2004, the Government provided information concerning **Faiq Kamangar** (E/CN.4/2004/56/Add.1, para. 1671). The Government informed that the investigation carried out by the competent authorities uncovered no information or records referring to his detention or to any other procedures taken in his regard.

1719. By letter dated 20 January 2004, the Government provided information concerning **Hasan Mustafa** (E/CN.4/2004/56/Add.1, para. 1673). The Government informed that the competent authorities have not found any information or records referring to his detention or to any other procedures taken in his regard.

1720. By letter dated 4 February 2004, the Government provided information concerning **'Abdalla al-Malki** (E/CN.4/2004/56/Add.1, para. 1670). The Government informed that he was arrested on 3 May 2002 for breaching the laws in place and has been transferred to the relevant court for trial.

Tajikistan

1721. By letter dated 15 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1722. **Vladimir Vasilchikov**, a 41 year-old preacher of the Awakening Baptist Church, Nurek, **Viktor Dudenkov**, age 35, and his wife, **Elena Dudenkova**. Between 16 and 23 June 2004, they were held at the local police station for questioning in connection with the disappearance of Vladimir Vasilchikov's mother, and beaten in order to extract a confession. On 21 June, Viktor Dudenkov was beaten for three hours, including on the temples, neck and kicked in the chest when he fell on the ground. He was forced to stand up whenever he fell down. He was ordered to remove his shirt when traces of the interrogators' boots became visible on it. Vladimir Vasilchikov was beaten on the face, stomach, chest and left shoulder. Elena Dudenkova was insulted, forced to stand up for several hours and denied food and drink. Police officers repeatedly turned down the requests of a lawyer to see Viktor Dudenkov and Vladimir Vasilchikov. On 23 June, Vladimir Vasilchikov was forced to sign a document stating that he was not beaten and would abstain from making any complaints. That day he was taken to Vakhdat for a medical examination, conducted in the presence of a senior policeman and a procuracy official from Nurek, and for which the doctor did not take notes of the injuries. On 25 June 2004, the two men were examined at the Republican Centre of Forensic Medicine, Dushanbe, where it was found that they suffered from concussions and head injuries. Both men were hospitalized for two weeks. On 5 August, it is reported that the procuracy of Khatlon region closed the investigation into the allegations of ill-treatment, which was confirmed by a decision of the General Procuracy on 28 October 2004.

1723. **Saidamir Karimov**, Pyanzh village. He was detained in May 2001, held incommunicado at the Temporary Detention Premises in Dushanbe, and sentenced to death on 27 March 2002 for a murder, based on a confession extracted under torture, which included beatings and electric shocks to the anus, genitals, fingers, nose and ears. Moreover, he was threatened that his mother would be arrested if he did not sign the prepared statement. On 29 May 2002, his appeal was rejected by the Supreme Court. The United Nations Human Rights Committee urged the authorities on 24 September 2002 to put the executions on hold while the cases were being considered by the Committee. His death sentence was commuted to 25 years' imprisonment by the Supreme Court on 3 December 2002. No investigations into the allegations of torture have been undertaken.

Urgent appeals

1724. On 5 March 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding **Abduali Kurbanov**, age 44. He is reported to be currently at risk of imminent execution following a death sentence imposed in March 2002, reportedly on the basis of a confession extracted under torture and without being offered an effective right of appeal. The Special Rapporteurs note that on 12 November 2003 the UN Human Rights Committee (see CCPR/C/79/D/1096/2002) found violations of Abduali Kurbanov's rights under the International Covenant on Civil and Political Rights. The Human Rights Committee further considered that he was entitled to an effective remedy entailing compensation and to a new trial before an ordinary court.

1725. On 27 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, concerning **Rachabmurod Chumayev**, age 25, **Umed Idiyev**, age 23, **Akbar Radzhabov**, **Mukharam Fatkhulloyev**, **Ibrogim Khusseynov**, **Todzhiddin Butayev**, age 26, **Akhmaddzhon Saidov** and **Savriddin Pirov.** According to the allegations received, they are reportedly at risk of imminent execution, following death sentences imposed on the basis of confessions extracted under torture. The eight men were sentenced to death in February 2003 on charges of terrorism, banditry, illegal possession of firearms, hostage-taking and murder. Rachabmurod Chumayev was detained by law enforcement officers on 22 June 2001 and kept in a police station in the central district of Dushanbe, where he was beaten with truncheons, and then electric shocks were applied to vulnerable parts of his body in order to force him to sign a confession. He was denied access to a lawyer for his first month in custody, and later given a state-appointed lawyer who did not present a strong defence case. Todzhiddin Butayev, Umed Idiyev, Ibrogim Khusseynov, Akbar Radzhabov, and Akhmaddzhon Saidov were also tortured and ill-treated in pre-trial detention. On 17 November 2003, the Supreme Court turned down appeals against the death sentences of Rachabmurod Chumayev, Ibrogim Khusseynov, Todzhiddin Butayev and Akbar Radzhabov. When relatives of Rachabmurod Chumayev and Ibrogim Khusseynov went to the investigation-isolation prison No. 1 in Dushanbe on 25 April 2004, to leave parcels for them, they were informed by the guards that Rachabmurod Chumayev, Umed Idiyev, Akbar Radzhabov and Mukharam Fatkhulloyev had been taken to the execution site the previous day. It is unknown whether these four detainees have already been executed and it is further alleged that the other four could be executed at any time. Complaints have been lodged with the United Nations Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights alleging violations of the above Covenant. The Committee had reportedly issued interim measures urging the authorities of Tajikistan to stay the executions of Rachabmurod Chumayev, Umed Idiyev, Todzhiddin Butayev, Ibrogim Khusseynov and Savriddin Pirov while it considered their cases.

1726. On 14 May 2004, the Special Rapporteur sent a joint urgent appeal with Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding **Ibrogim Khusseynov** and **Todzhiddin Butayev** (cited in a previously transmitted communication, para. 1724). It has been reported that Rachabmurod Chumayev, Umed Idiyev, Akbar Radzhabov, and Mukharam Fatkhulloyev, whose cases were also included in the previous communication have since been executed. Akhmaddzhon Saidov and Savriddin Pirov, also included in that appeal, have reportedly had their death sentences commuted to imprisonment.

Thailand

1727. By letter dated 1 November 2004, sent 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 the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received information concerning the deaths of **87 persons** following actions taken by Thai security forces on 25 October 2004 in Takbai, Narathiwat. According to the allegations received, on the morning of 25 October 2004, during a clash between 2,000 Muslim protesters and security forces in Takbai district, Narathiwat province, nine people were killed by police officers. The protest occurred to demand the release of six detained Muslim security guards. Demonstrators threw stones at

security forces and attempted to storm a police station. Police officers, after using water cannons and tear gas, fired at the protesters, killing six of them. Authorities claim that the protesters were armed and that orders were given to fire in the air but failed to be respected. Three other protesters died during these events. Moreover, 1,300 people were arrested following the above-mentioned protest and put into military trucks to be transferred to detention centres. Among those, 78 prisoners died, most of them of suffocation or dehydration during the transfer that allegedly lasted five hours.

1728. By letter dated 4 November 2004, the Government responded that the unfortunate incident on 25 October 2004 was in no way deliberate in intent. The Government views the 87 deaths as most tragic and regrets that errors and misjudgement were made. On 2 November 2004, the Government appointed an independent commission to investigate the incident and report on its findings within 30 days. The incident should be viewed in a broader context of the developments in the southern provinces since January 2004. Since then and up until 21 October, over 264 lives, both Muslim and Buddhist, have been lost, while 397 have been injured. The Government has exercised relentless efforts to restore peace and order and is committed to resolve the situation in a peaceful manner, adhering to the principle of human rights. As of 30 October, 1,109 detainees have been released while 189 are still detained for further investigation.

1729. By letter dated 15 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Rinat Kudayarov**, a national of the Russian Federation. Since 22 October 2002 he has been held in shackles in Bang Kwang Prison, Bangkok. He is detained in a 24 m2 large cell together with 24 persons, without beds, one toilet only, and no shower.

Urgent appeals

1730. On 30 January 2004, the Special Rapporteur sent an urgent appeal concerning **Adil Shah**, a 27-year-old Pakistani national. According to the allegations received, he is detained at Bangkok International Airport. It is reported that he is at risk of imminent forcible return to Pakistan, where he may be at risk of torture. Mr. Shah has been arrested for illegal acts in the past, and subjected to torture while in prison in Pakistan.

1731. On 17 March 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Somchai Neelahphaijit**, chairman of the Muslim Lawyers Association and human rights defender. According to the allegations received, he left his home in Bangkok on Thursday 11 March 2004, and has not been seen since. He was due to attend a meeting at 9 pm on Friday 12 March at the Chalina Hotel in Bang Kapi district, and was also due to appear in court for a case in Narathiwat province on 15 March. He did not attend either of these events and his family has reportedly not had any news from him. On 16 March, his wife filed a complaint with Bang Yikhan police. Prior to his disappearance, Somchai Neelahphaijit had received anonymous threatening phone calls, including one call from a senior member of the authorities informing him that he was on the top of a military blacklist. He has been involved in petitioning 50,000 signatures nationwide

to call for an end to martial law in Southern Thailand as well as his work to defend Muslim suspects against terrorist and treason charges.

1732. By letter dated 30 March 2004, the Government informed that it shared the concern at the disappearance and safety of Somchai Neelaphaijit. Like all other cases of involuntary disappearance, the police have used all available means to investigate his whereabouts. In recognizing Somchai Neelaphaijit's lifelong dedication to the defence of human rights, the Prime Minister has made it very clear to all government agencies concerned that every necessary measure must be taken to resolve this case as soon as possible, and those who are responsible for his disappearance will have to be brought to justice without exception and delay. On 18 March 2004, an independent committee under the chairmanship of the Director-General of the Department of Special Investigation of the Ministry of Justice was established by the Prime Minister to ensure that full redress is given to Somchai Neelaphaijit. The subcommittees on information analysis, forensic evidence and investigation were also set up to assist the committee. The Government stands ready to receive any information pertinent to this case from all sides, be they the publice or various human rights NGOs, and even to engage them in a consultation with the above-mentioned independent committee.

1733. On 25 June 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding the situation of **Somchai Neelapaijit** (cited in a previously transmitted communication, see above). According to the allegations received, despite the arrest of five policemen suspected of involvement in the abduction, as well as the fact that Somchai Neelapaijit has been missing for over 100 days, little progress has been made by the committee in locating his whereabouts. One member of the committee has reportedly stated that they have not been receiving adequate cooperation from the police regarding the case.

1734. By letter dated 6 August 2004, the Government informed that it attaches utmost importance to the case, and all government agencies responsible are instructed to render full assistance to the independent committee and the three subcommittees established on 18 March 2004 to investigate Mr. Somchai's disappearance. The case is also closely monitored by the general public, the press, human rights national institutions and the civil society in the country; therefore a domestic check-and-balance system exists, and is effectively functioning to ensure that full justice and redress be given to Mr. Somchai's and his family. On 12 July 2004, the Criminal Court heard the case file by the State Prosecutor. His wife has been allowed to act as a co-plaintiff, and this reflects the Court's readiness to accord her every possible means to participate in the hearings, including to present witnesses and evidence. The lawsuit was filed against five police officers who were charged with robbery and coercion through threats of death and bodily harm against Mr. Somchai. Witness hearings are expected to run from 9 August 2004 to 21 December 2005. Despite the independent committee's and Government agencies' efforts to locate Mr. Somchai, his fate remains unknown. The Government welcomes any information in this regard. Charges against the accused are so far confined to robbery and coercion through threats of death or bodily harm, and not yet murder, because of lack of evidence. The charges may change depending on any new evidence. The consideration of the case is progressing under the country's judicial system and all possible efforts are continuously undertaken to locate Mr. Somchai.

1735. On 30 November 2004, the Special Rapporteur sent an urgent appeal, concerning **Anek Yangnuek**, aged 24, **Metta Sipan**, aged 24, **Adisak Boonklam**, aged 24, and **Sujit Rachamontri**, aged 22, residing in Phra Nakhon Si Ayutthaya district, Ayutthaya province. According to the allegations received, on 9 September 2004, they were arrested by police officers of the Phra Nakhon Si Ayutthaya Police Station, on suspicion of robbery. They were taken to the station, where they were beaten in order to extract confessions. Sujit Rachamontri was subjected to electric shocks. The four men are reportedly still in custody. Moreover, the 12 officers at the same police station were allegedly involved in the torture on 2 November 2004 of **Ekkawat Srimanta**, a 21-year-old street vendor. He was arrested on suspicion of theft and brought to the police station, where the officers covered his head with a hood and beat him all over his body to force him to confess. He was then transferred to the Uthai police station, where eleven officers at that station participated in beating him, including subjecting him to electric shocks on the genitals, groin and toes. He sustained injuries including marks of combat boots on his back, swollen thighs, swollen cheeks, face and throat. Ekkawat Srimanta was subsequently released without charge. The 23 officers involved were reportedly transferred to Bangkok pending the outcome of investigations.

Follow-up to previously transmitted communications

1736. By letter dated 8 April 2004, the Government provided information concerning **Sandar Hlaing** (E/CN.4/2004/56/Add.1, para. 1678). The Government informed that on 2 September 2003, one day after the body of Sandar Hlaing was found, the 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 considerably high, a series of hearings have been scheduled. The 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 Sandar Hlaing's status as a migrant worker, her case is ensured to receive due justice under Thai criminal law. Moreover, the Criminal Case Compensation Act of 2001 also indicates the possibility in which compensation would be made to the family of Sandar Hlaing.

1737. By letter dated 8 April 2004, the Government provided information concerning **Sok Yoeun** (E/CN.4/2004/56/Add.1, para. 1681). The Government informed that Sok Yoeun left Thailand for Finland on 26 February 2004, with cooperation between the two Governments, UNHCR and the International Organization for Migration. Thailand handled his case fully in accordance with its legal system. Throughout the process, Sok Yoeun had been given ample opportunity to defend himself in both the courts of first instance and appeal. While the appeal court ruled to return Sok Yoeun back to Cambodia, the Government had resolved the issue through diplomatic channels with the Government of Cambodia until a decision was jointly reached to allow him to join his family in Finland.

The former Yugoslav Republic of Macedonia

1738. By letter dated 11 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1739. **Ismail Jaoski**, aged 41, mayor of Plasnica. On 25 February 2002 at 2 pm, he was driving to Cochani when he was stopped by a policeman outside of Prilep. He was ordered out of the car and struck from behind the head with a hard object, and kicked several times. Ismail

Jaoski went to the Prilep police station at 2.30 pm to report the incident. Five minutes after he arrived, the policeman who originally beat him entered, accompanied by two others, who repeatedly punched, kicked, and beat him with truncheons until he lost consciousness. He was treated in Prilep Hospital for his injuries, and was not permitted to get a copy of his medical file. On 26 February, he went to the Bitola Hospital, where he was diagnosed with a cracked skull, bleeding in the left ear, concussion, partial amnesia, and bruising and swelling in the region of his kidneys and abdomen. On 27 February, the Ministry of the Interior reportedly denied his claims of ill-treatment.

1740. **Ramadan Mahmuti**, a 31-year-old ethnic Albanian taxi driver, Gorno Svilare village, Skopje. On 29 July 2002 at about 6 pm, he picked up a passenger near Zlockuchani, when they were followed by a white van and two jeeps. They were forced to stop and a number of plain clothes policemen got out of the vehicles and dragged Ramadan Mahmuti out of the car, hitting him on the mouth with a walkie-talkie, and hit him in the ribs, face and head, and racially insulting him. He was handcuffed and taken to Gjorche Petrov police station where he was tied up. He was released at 11 pm. He suffered swelling to his head and face, and chest pains, and was examined at Skopje City Hospital.

1741. **Ramiz Tahiri**, a 23-year-old ethnic Albanian, Arachinovo, Skopje. On 13 September 2002 at 11.20 am, as he was leaving the main hospital in Skopje with his wife, he was stopped by a plain clothes policeman, who requested to see his identity papers. The policeman accused him of being involved in obstructing the Democratic Party of Albanians from holding a pre-election rally in Arachinovo on 9 September. Shortly thereafter, three members of a special police unit arrived in a white Toyota pick-up truck. One of the officers slapped him, hit him in the genitals, and racially insulted him. The four officers then kicked and punched him, and one of them threatened to shoot him with a gun. The officers let him and his wife go at about 12.30 pm. Ramiz Tahiri suffered injuries to his right knee, right arm, and pains to his stomach and genitals. The injuries were confirmed by a medical certificate.

1742. **Arben Ismaili**, Nerezi, Skopje. On 9 October 2002 at about 9.30 pm, he and another person were stopped by two policemen, who requested to see their identity papers. A plain-clothes officer joined the two officers, and together they proceeded to insult the two men. Arben Ismaili, despite suffering from cerebral palsy, was repeatedly punched in the face. The officer at the Skopje Karposh police station refused to take action on a complaint made by his relative.

Togo

1743. Par lettre en date du 22 juin 2004, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements sur les conditions de détention dans la prison de Lomé. Selon ces informations, la prison accueillerait deux à trois fois plus de détenus que sa capacité ne le permettrait. Dans des cellules de 4 m^2, les détenus seraient parfois jusqu'à cinq, et ceux nouvellement arrivés seraient souvent contraints de passer les premières nuits debout. Les détenus comme les gardiens craindraient d'être agressés à tout moment en raison notamment de la présence de malades mentaux pour lesquels aucune autre institution n'existerait. L'accès aux toilettes et aux douches ouverts à la vue de tous serait payant. Seuls un infirmier et une soigneuse seraient présents dans les locaux de la prison qui n'aurait aucun médecin. Les détenus ne recevraient qu'un repas par jour. Des châtiments corporels seraient imposés aux

détenus. Décidées par le chef de prison, les sanctions seraient progressives allant de coups infligés à l'aide d'un bâton jusqu'à l'isolement dans deux pièces sans fenêtres, l'une de 1,25 × 1,50 mètre pour la détention, l'autre de 1 × 1 mètre pour y faire ses besoins. Toujours à titre de sanction, les détenus seraient également conduits dans ce qu'ils auraient coutume de nommer « la piscine », et qui serait en fait un lieu d'écoulement des douches et des toilettes, empli d'eau croupie, d'excréments et de tessons de bouteille. La durée des visites serait limitée à 5 minutes, la pratique du sport rigoureusement interdite. Enfin, les nombreux jeunes de 17/18 ans emprisonnés ne seraient pas séparés des adultes. Ils seraient en outre contraints de laver les cellules, accompagner les détenus jusqu'à leurs visiteurs et faire office de ventilateur durant la nuit pour gagner l'argent nécessaire à la couverture de leurs besoins.

1744. Par lettre en date du 22 juin 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquelles **Komi-Koumah Tengué**, président du Comité de développement de Dzolo, aurait été arrêté le 7 janvier 2004 à la demande du chef de canton de village pour avoir blessé un jeune homme du village lors d'une prétendue rixe avec celui-ci, et conduit par le brigadier chargé du poste de police de Dzolo au commissariat de Kévé. Selon les renseignements communiqués, cette arrestation aurait pu être motivée par la rancœur supposément nourrie par le chef de canton de village à l'encontre de M. Tengué suite à sa nomination en tant que président du Comité de développement du village. D'après les renseignements transmis, ces comités auraient des compétences et des missions non négligeables, en particulier s'agissant de l'implication de la société civile, et notamment des jeunes villageois dans les travaux communautaires. Le 12 janvier, inquiète du fait que cette affaire n'ait pas été réglée par le chef de village habituellement compétent pour ce type de litige, la famille de Komi-Koumah Tengué aurait demandé que le chef de canton de village reprenne le dossier. Le même jour, elle se serait rendue au commissariat de Kévé où elle aurait été informée du décès de Komi-Koumah Tengué. Les policiers auraient affirmé à la famille que le détenu avait été autorisé à aller puiser de l'eau dans une citerne située dans l'enceinte même du commissariat pour se laver, et qu'il s'était jeté volontairement dans la citerne et noyé, en dépit des efforts de policiers et de passants pour le sauver. Cependant, sa famille aurait constaté un nombre important de blessures sur tout son corps. Son visage aurait été tuméfié, ses testicules sortis de leurs poches, et du sang séché aurait été trouvé sur sa tête. Son cou aurait présenté une extrême raideur, des hémorragies nasales aurait également pu être constatées, sans que n'apparaisse aucun signe venant attester d'un décès par noyade. La famille de Komi-Koumah Tengué aurait alors porté plainte et réclamé une autopsie dont les résultats auraient été rendus publics le 26 janvier 2004. D'après le rapport d'expertise, Komi-Koumah Tengué ne se serait pas noyé et aurait trouvé la mort dans un état de choc aigu. Aucune enquête n'aurait été diligentée sur les causes de sa mort. En outre, le Rapporteur spécial a été informé du fait qu'à ce jour aucun article criminalisant la torture ne figurerait dans le Code pénal togolais.

1745. Les Rapporteurs spéciaux ont également été informés que dans le cadre de ses relations avec l'Union européenne, le Togo aurait pris le 14 avril 2004 un certain nombre d'engagements, et en particulier ceux de garantir à tout moment l'absence d'exécutions extrajudiciaires, de torture, et d'autres actes dégradants sur le territoire togolais, y compris par la formation adéquate des cadres des forces de l'ordre et du système judiciaire (engagement 2.1), de faire sanctionner les responsables de tels actes et d'amender les textes en vigueur si nécessaire (engagement 2.6). Les Rapporteurs spéciaux sauraient gré au Gouvernement du

Togo de bien vouloir l'informer de toutes mesures prises en vue de la mise en œuvre desdits engagements.

1746. Par lettre en date du 22 juin 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels 22 militaires et agents des forces de sécurité auraient été arrêtés juste avant l'élection présidentielle du 1er juin 2003 pour leur supposé soutien à Kuma Bitenewe, un colonel de l'armée qui serait entré en dissidence après avoir dénoncé certaines pratiques au sein de l'armée. Ces militaires et agents des forces de sécurité seraient détenus au secret. Il s'agirait des lieutenants **Kpandang** et **Gnadakpo**, des capitaines **Gnalo, Gnadakpan** et **Adjinon** (camp de Lomé), des sergents-chefs **Gnalo, Boboli** et **Baka**, des caporaux en chef **Gnamnian**, **Ouro** et **Bassiya Yanti Alfa**, **Malou Karuwe Kossi**, des soldats **Mensah Yao, Bonfo, Dena Ouhundowa** et **Kao Kpatolozim**, de l'adjudant **Bonfo** (camp de Lomé), du policier officier **Karwe A**, du sergent **Gnaglo**, de **Kako Yao, Odin Komlan** et **Moussa Ganiou**.

1747. Par lettre datée du 11 octobre 2004, le Gouvernement a fait savoir aux Rapporteurs spéciaux que le cas des 22 militaires et agents des forces de sécurité relevait du secret-défense.

Trinidad and Tobago

Urgent appeals

1748. On 4 May 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the human rights of migrants regarding **John Kromah**, **Emanuel Kinde Hamon**, **Samuel Keiju**, **Francis Imkoomah**, **Colins Andor**, **Emanuel Sartons**, **George Domdree**, seven Liberian nationals. According to the allegations received, they requested political asylum at a police station in Port of Spain, on 21 April 2004, claiming that they had left Liberia for fear of being killed. It is alleged that they were instead arrested under the Immigration Act on suspicion of being 'prohibited immigrants', and are being held incommunicado in poor conditions in Golden Grove Prison. It is reported that the cells measuring two by three metres, house 16 prisoners each, and the supply of food, which is said to be of very poor quality, and water, is irregular. The seven men are being detained alongside other convicted and remanded prisoners. They have been denied access to lawyers and to the Office of the United Nations High Commissioner for Refugees. It has not been confirmed by the relevant authorities when they would appear before a court and when or if they would be granted legal assistance.

Tunisia

1749. Par lettre en date du 25 mars 2004, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels **Badreddine Ben Hassen Ben Mokhtar Reguii**, 29 ans, de Mégrine, serait décédé le 8 février 2004 au centre de détention de Bouchoucha (Le Bardo). Badreddine Ben Hassen Ben Mokhtar Reguii aurait été arrêté pour un délit de droit commun le 2 février 2004. Il aurait auparavant purgé une peine de

trois ans de prison ferme qui lui aurait été infligée dans une affaire liée au groupe islamiste Al Ansar. Le 9 février 2004, des agents de police auraient informé sa famille de son décès, alléguant qu'il s'agissait d'un suicide. Toutefois, des traces de violence ayant été constatées sur le corps du défunt, des craintes auraient été exprimées quant au fait que des mauvais traitements et des actes de torture supposément subis en détention pourraient être la cause du décès.

1750. Par lettre en date du 22 avril 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels neuf internautes : **Hamza Mahrouk**, 21 ans, **Amor Farouk Chelandi**, 21 ans, **Amor Rached**, 21 ans, **Abdel-Ghaffar Guiza**, 21 ans, **Aymen Mecharek**, 22 ans, **Ridha Hadj Brahim**, 38 ans, **Ayoub Sfaxi**, **Tahar Guémir**, 19 ans, et **Abderrazak Bourguiba**, 18 ans, auraient été accusés d'avoir fomenté des attentats terroristes et auraient été condamnés à de lourdes peines de prison pour avoir consulté et téléchargé des documents sur Internet. Selon les informations reçues le 6 avril 2004, la troisième chambre criminelle du tribunal de Tunis aurait condamné en première instance Hamza Mahrouk, Amor Farouk Chelandi, Amor Rached, Abdel-Ghaffar Guiza, Aymen Mecharek et Ridha Hadj Brahim, à 19 ans et trois mois de prison ferme et cinq ans de contrôle administratif pour chacun. Ayoub Sfaxi, résidant à l'étranger, aurait été condamné par contumace à la même peine. Tahar Guémir, résidant également à l'étranger et considéré par l'accusation comme le chef du groupe, aurait été condamné par contumace à 26 ans de prison. Selon les rapports, Abderrazak Bourguiba aurait quant à lui été condamné, le 16 avril 2004, à 25 mois de prison par la chambre criminelle pour mineurs du tribunal de première instance de Tunis. Selon les faits portés à la connaissance des Rapporteurs spéciaux, l'accusation n'aurait produit aucune preuve sérieuse à l'encontre des neuf accusés. Lors des interpellations, la police n'aurait saisi qu'un tube de colle et quelques CD-Rom. Les rapports indiquent également que les accusés, arrêtés entre le 5 et le 10 février 2003, auraient été interrogés à Tunis au siège du Ministère de l'intérieur (Sûreté de l'Etat), où ils auraient été soumis à des coups de bâton, coups de poing et coups de pied sur tout le corps et à des morsures des oreilles. Hamza Mahrouk et Amor Rached auraient été suspendus au plafond par les mains. Suite aux interrogations, ils auraient été enfermés dans des cellules individuelles durant une semaine, vraisemblablement pour que toute trace apparente de torture disparaisse. Aux environs du 25 février 2003, ils auraient été transférés à la caserne de Bouchoucha. De plus, il a été porté à la connaissance des Rapporteurs spéciaux que, le 19 février 2003, des avocats du Barreau auraient saisi le procureur de la République près le tribunal de première instance de Zarzis pour l'informer de la violation, par la police, des délais de garde à vue de leurs clients, ainsi que de leur maintien en détention dans un endroit secret. Par ailleurs, les autorités judiciaires auraient refusé toute expertise médicale suite à une plainte déposée par cinq des inculpés.

1751. Par lettre en date du 11 juin 2004, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels, le 8 juin 2004, trois membres de l'Association de lutte contre la torture en Tunisie (ALTT), **Radhia Nasraoui** (présidente), **Ali Ben Salem** (vice-président) et **Ridha Barakati** (trésorier), auraient été agressés verbalement et auraient reçu des coups de la part de policiers appartenant à la Brigade de sûreté de l'Etat alors qu'ils essayaient d'entrer

dans les locaux du siège du gouvernorat de Tunis pour y déposer, conformément à la loi tunisienne, les documents requis pour l'enregistrement de leur association. Les membres de l'ALTT qui se verraient constamment refuser l'accès aux locaux du gouvernorat de Tunis auraient alors décidé de faire un sit-in devant le siège du gouvernorat. Radhia Nasraoui aurait alors été emmenée par plusieurs policiers jusqu'à une rue isolée où elle aurait été séquestrée pendant environ une heure et demie. Ali Ben Salem aurait quant à lui été conduit dans une rame de métro, et Ridha Barakati aurait été placé dans un taxi, dont le chauffeur aurait reçu l'instruction de l'éloigner le plus possible du gouvernorat. L'ALTT, dont la création aurait été annoncée le 26 juin 2003, Journée internationale des Nations Unies pour le soutien aux victimes de la torture, a pour mandat de promouvoir les législations locales de protection contre la torture, recenser et faire le suivi des cas de torture, et fournir une assistance aux victimes sur le plan médical, ainsi que sur le plan judiciaire en vue du dépôt de plaintes auprès des instances nationales et internationales. Dès le jour de sa création, les membres fondateurs de l'ALTT se seraient rendus au siège du gouvernorat de Tunis afin de déposer les documents requis mais auraient été refoulés. D'après les informations reçues, Ali Ben Salem, âgé de 74 ans et dont la santé serait déjà fragile, aurait été très affecté par les violences qu'il aurait subies et serait actuellement dans un grand état de faiblesse. Quant à Radhia Nasraoui, celle-ci aurait des bleus sur les bras et sur l'une de ses jambes; elle serait provisoirement dans l'impossibilité de reprendre normalement ses activités d'avocate.

Suite donnée aux plaintes signalées dans des communications précédentes

1752. Par lettre datée du 30 janvier 2004, le Gouvernement a transmis des renseignements concernant **Mohamed Ben Hedi Naouar** (E/CN.4/2004/56/Add.1, par. 1700). Le Gouvernement a informé que M. Ben Hédi Naouar avait été interpellé dans le cadre des investigations menées par les services compétents au sujet d'un attentat terroriste perpétré en avril 2002 contre la synagogue de la Ghriba à Djerba. L'intéressé a été libéré après avoir été entendu par le doyen des juges d'instruction auprès du tribunal de première instance de Tunis, et ce en présence de ses deux avocats. Le Gouvernement a indiqué que les investigations dont il avait fait l'objet s'étaient déroulées dans le respect des règles de la procédure prévue par la législation tunisienne.

1753. Par lettre datée du 30 janvier 2004, le Gouvernement a transmis des renseignements concernant **Zouhair Yahiaoui** (E/CN.4/2004/56/Add.1, par. 1699). Le Gouvernement a fait savoir que M. Yahiaoui avait bénéficié le 18 novembre 2004 d'une libération conditionnelle, et détaillé les poursuites dont il avait fait l'objet, ainsi que les faits ayant conduit à ces poursuites. Le Gouvernement a par ailleurs informé que les allégations de mauvais traitements dont M. Yahiaoui aurait fait l'objet étaient dépourvues de fondement et indiqué que ses conditions de détention étaient conformes à la législation tunisienne en adéquation avec les normes internationales en la matière, qu'il avait reçu régulièrement des visites de membres de sa famille et qu'il avait bénéficié d'un suivi médical régulier.

1754. Par lettre datée du 9 mars 2004, le Gouvernement a transmis des renseignements concernant **Lofti Idoudi** (E/CN.4/2004/56/Add.1, par. 1701). Le Gouvernement a informé qu'il avait purgé sa peine dans des conditions de détention normales jusqu'au 25 octobre 2003, date à laquelle il s'était plaint de maux de tête. Le Gouvernement a par ailleurs indiqué que, le 3 novembre 2003, il avait bénéficié d'une mesure de libération conditionnelle pour des considérations humanitaires et de santé.

1755. Par lettre datée du 9 mars 2004, le Gouvernement a transmis des renseignements concernant **Khedidja Chérif** et **Souhayr Belhassen** (E/CN.4/2004/56/Add.1, par. 1692 à 1694). Le Gouvernement a informé que les plaintes déposées pour agressions avaient fait l'objet d'une information judiciaire et qu'à défaut d'éléments pouvant conduire à l'identification des coupables, les investigations se poursuivaient.

Turkey

1756. By letter dated 1 July 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations concerning **Hakim Cetiner**, **Besir Ariz**, **Faysal Karadeniz**, **Saban Boz**, **Ahmet Bulut, Bayram Bulut**, **Mehmet Sirin Hatman**, **Bahire Karatas**, **Firat Duzgun** and **Iclal Guclu**, journalists and cameramen for D?HA, Gün TV, Söz TV, SHOW TV and Kanal 21; and a number of demonstrators, including **Hasan Orak**, **Ilknur Ozlem**, **Hida Gulaydin**, **Vedat Tanriverdi**, **Muhslis Abik**, **Bilal Senturk**, **Veysi Durudemir, Mustafa Polat**, **Zeynep Katar**, **Seyro Ece** and **Mehmet Ayata**. According to the allegations received, the journalists and camermen were assaulted by police officers in Diyarbakir on 28 March 2004, while they were covering the dispersion of a demonstration against alleged electoral fraud, following the local elections in the city that day. They were beaten with clubs and chains. Mehmet Sirin Hatman, Saban Boz and Bahire Karatas were hospitalized. Mehmet Sirin Hatman and Bayram Bulut had their arms broken. During the incident, the police officers damage their cameras and tried to seize film from the journalists. The demonstrators were beaten with batons and chains by police officers. Some of them were seriously wounded. Zeynep Katar, Seyro Ece and Mehmet Ayata were wounded during the dispersion of the demonstration and subsequently arrested.

1757. By letter dated 30 August 2004, the Government informed that after voting for local elections took place on 28 March, a group of demonstrators gathered in front of the courthouse in Diyarbakir at around 10:30pm. The group started to chant slogans and blocked traffic. The security officers did not intervene until an election officer and a policeman were assaulted by the demonstrators. Among the demonstrators, Mr. Seyro Ece was taken into custody for violently resisting the officers and taking part in the incident. The group did not disperse and headed to a nearby street. The police were again obliged to intervene. Mr. Mehmet Ayata, Mr. Mustafa Polat and Ms. Zeynep Katar violently resisted the police officers, and were forcefully overpowered and taken into custody. It was established that Mr. Mehmet Ayata was a lawyer, was ordered released and asked to appear before the Public Prosecutor on the following day, 29 March. Mr. Polat and Ms. Katar were also referred to the Public Prosecutor's Office on 29 March. The Office filec a lawsuit against the accused in accordance with Law No. 3005 (crimes committed in the presence of witnesses) and Law No. 2911 (violating the law on the meetings and demonstrations). They were released pending the trial and the case is underway. These persons were examined by doctors both before and at the end of their custody. According to the medical reports at the beginning of the custody, "oedema and hyperemic areas" were perceived on their bodies. The medical reports received after the end of the custody period did not indicate the existence of any additional marks. Therefore, it was concluded that the injuries on their bodies had probably occurred during their forceful arrest by the police. After the incidents, local journalists and cameramen Mr. Faysal Karadeniz, Mr. Mehmet Sirin Hatman, Mr. Firat Düzgün, Mr. Bayram Bulut, Ms. Basiye

Karatas, Mr. Ahmet Bulut and Mr. Besir Ariz filed a joint complaint at the Yenisehir Police Station in Diyarbakir, concerning police actions at Büyükalp Street. They attached medical reports of their injuries from the Diyarbakir State Hospital. They alleged that some 10-15 persons whom they believed to be plain clothes policemen arrived at the scene, attacked the demonstrators and then assaulted the journalists. According to the complaint, the alleged plain-clothes policemen smashed their cameras and seized the camera of Ms. Basiye Karatas. An investigation has been initiated by the Chief Public Prosecutor's Office and is underway. Mr. Mehmet Hide Gülaydin and Ms. Iclal Güçlü, stated in their testimonies delivered at the Yenisehir Police Station that they wished to file complaints. Upon the request by the Diyarbakir Governorate, the Ministry of the Interior assigned two police chief inspectors to investigate all the above-mentioned cases.

1758. By letter dated 7 September 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government responded by letter dated 25 November 2004 and 20 December 2004:

1759. **Mahir Mansuroglu**, **Dilsat Aktas** and **Ibrahim Karabagli**, three university students. They were severely beaten when they demonstrated on 2 April 2003 against the visit to Ankara of the Secretary of State of the United States of America.

1760. The Government informed that on 2 April 2003 at 9:15am, they were among a group of 20 people who gathered in front of the Ministry of Foreign Affairs, Ankara, and blocked the road, in protest of a visit of the United States of America Secretary of State. Police officers warned the protestors with loudspeakers, stating that their demonstration was unlawful due to the fact that they blocked the road, thus their act constituted an infringement of the Law on Meeting and Demonstration Marches No. 2911. The police also asked the group to end their unlawful gathering and warned them that they would be detained otherwise. The group disregarded the warnings, continued to march towards the building's entrance, and threw eggs at the police. The police were compelled to resort to force to disperse them, when the protestors attempted to breach the police cordon. A subgroup of ten protestors, including Mahir Mansuroglu, Dilsat Aktas and Ibrahim Karabagli, who continued to resist forcefully, were detained and charged. The medical reports of these persons record some symptoms of injuries that were sustained from resisting arrest. The Bureau of Criminal Acts in the Press of the Ankara Public Prosecutor's Office held an investigation and filed a lawsuit against them at the Ankara Penal Court of First Instance No. 6 on grounds of infringement on the Law on Meeting and Demonstration Marches No. 2911 on 16 April 2003. The first hearing of the case was held on 16 September 2003. Since the offence attributed to the accused was legally unsubstantiated, the court acquitted the accused. The prosecutor appealed against the verdict at the Prosecutor's Office of the Court of Cassation on 31 October 2003. The review of the case is still underway. They have not file any complaint at the Ankara Public Prosecutor's Office related to this incident since 2003.

1761. **Mesut Kiliç**, a student. He suffered a broken leg as a result of police use of force during a demonstration held on 11 April 2003 in Izmir to protest against the war in Iraq. In scenes that were broadcast on national and local television news broadcasts, police were seen to disperse student protesters by beating and kicking them.

1762. The Government informed that on 11 April at 3:30pm, a group of 25 to 30 people, including Mesut Kiliç, were gathered in from of the Izmir Branch of the Human Rights Association, to protest the war in Iraq. The police repeatedly warned the protestors with loudspeakers with five minute intervals, stating that their protest was unlawful due to the fact that they did not receive the necessary permission. The police asked the group to end their protest after they read their press statement, warning them of the use of force if they did not disperse. The Chairman of the association was asked for mediation to stop the protest. The crowd ignored calls to disperse, and when they insisted on approaching the Rapid Reaction Police forces stationed in front, the latter were compelled to react by use of force to disperse the protestors. After the incident, the group of protestors threw stones and sticks at the police, and beat one traffic officer. They fled toward the Basmane Square, entered the building of the Justice and Development Party, Konak Branch, occupied a meeting room and barricaded themselves. NGO representatives convinced the protestors to evacuate the room. A group of 20 protestors, including Mesut Kiliç, who resisted the police intervention, was detained by force at 5:30pm. Following their medical examination, two minor protestors were handed over to their legal guardians. Eighteen others, including Mesut Kiliç, were brought to the Anti-Terrorism Branch, Bozkaya, due to the limited space of interrogation and detention rooms available in the Division of Security Directorate. The police videotaped the whole incident. The legal authorities later released the detainees. Upon the complaint filed by the Security Division of the Office, the Izmir Public Prosecutor's Office filed a lawsuit at the Izmir Penal Court of First Instance No. 7 against Mesut Kilic on grounds of holding an illegal demonstration march on 12 April 2003. The hearing of the case was scheduled for 4 November 2004. He has not filed any complaint at the Izmir Public Prosecutor's Office related to this incident.

1763. By letter dated 14 September 2004, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government responded by letter dated 13 December 2004:

1764. The **Human Rights Foundation of Turkey** (TIHV)'s Diyarbakir Centre for the rehabilitation of victims of torture, a human rights organization whose primary objectives are to document human rights violations, to provide medical and psychological help for torture survivors through a network of rehabilitation centres and to lobby for the abolition of torture. The centre was raided by the police on 5 September 2001. The police reportedly seized computers and documents, including the Centre's confidential patients' files. A case was subsequently opened against Mr. Sezgin Tanrikulu (cited in a previously transmitted communication, E/CN.4/2004/60/Add.1, para. 92), TIHV's Diyarbakir representative, for illegally operating a health clinic and possessing banned publications.

1765. The Government informed that on 7 September 2001, the Public Prosecutor's Office of the Diyarbakir State Security Court applied for a search warrant against the Centre. The Reserve Member of the State Security Court Chairman's Office No. 4, agreed and issued a search warrant, valid for only one search during daytime. With this authorization the search was carried out on the same day at 5:30pm and some documents were seized. The Public Prosecutor was informed about the documents and he filed a lawsuit at the Diyarbakir Penal Court of First Instance on grounds of opening and running a health centre without a license, which constituted an infringement of Law No. 2219. As a result of a hearing held on 19 April 2002, due to the absence of adequate evidence supporting the allegation, the court acquitted

the accused. Some of the documents seized were retained for the lawsuit and the rest were handed over to Sezgin Tanrikulu, the Diyarbakir representative of the Foundation, on 9 October 2001 upon the ruling of the Public Prosecutor's Office of the State Security Court.

1766. **Yunus Güzel**, a 33 year-old man who had been accused of being a potential suicide bomber. His dead body was found on 23 October 2001 in his cell at Istanbul Police headquarters. The police announced that he had hanged himself with his bed linen, fixed to the bed. However, other sources reported that there was no linen in the room. Other detainees reported that Yunus Güzel had been subjected to torture. One of his relatives stated that he saw traces of beatings and electric shocks on his forehead and other parts of the body. The case was brought before the Fatih Penal Court.

1767. The Government informed that on 16 October 2001, a security operation was conducted against the Revolutionary People's Liberation Party/Front (DHKP/C). The police officers from the Istanbul Security Directorate detained him due to his relationship with the organization. On that very day the police officers found him dead in his detention room in the Office of the Chief of the Detention Rooms. He was understood to have committed suicide by hanging himself with his bed linen. The medical examination reports dated 17 October and 20 October indicated no trace of ill-treatment. The autopsy report dated 21 November stated that he died of suicide.

1768. **Emin Ete**. He was arrested on 19 April 2003 in Siirt by three plain-clothed police officers. He was reportedly threatened by a superintendent who held a gun to his head and slashed him with a knife. Emin Ete was taken to hospital and received stitches to his hand. However, it is alleged that the superintendent confiscated the doctor's report and neither Emin Ete nor his lawyer have been able to obtain a copy of it. At his first attempt to file a complaint against the police, he was turned away by the public prosecutor. He made a second attempt with the assistance of a human rights non-governmental organization and his complaint was eventually filed with the prosecutor's office.

1769. The Government informed that on 19 April 2003 at 9pm, a stone was thrown and broke the windshield of a police car on patrol in the Evren Neighbourhood, Siirt. The police sought to interview Mehmet Emin Ete, who was there when the incident took place. He refused and used insulting language, including threats against the officers. He was then invited to the police station. He refused and violently resisted the officers, who were compelled to use force to put him into the police car. He attempted to wound the police officer in the rear seat with a pocket-knife. He accidentally cut himself when the officers intervened. After being treated, he was taken to the police station. Following the completion of the investigation he was released upon the order of the Public Prosecutor. Mehmet Emin Ete file a complaint against the police for ill-treatment at the Public Prosecutor's Office. The officers filed a complaint against him on grounds of resistance to officers on duty. The Public Prosecutor filed a lawsuit at the Siirt Penal Court of First Instance. The court decided for acquittal for both complaints, and no administrative investigation was initiated.

1770. **Ali Ulvi Uludogan** and his brother, **Ilhan Uludogan**. They were detained on 25 May 2003 for driving through a red light in the Kulu district of Konya province. They were subjected to torture and ill-treatment in detention in Kulu police station. On telephoning the police station, Ulvi Uludogan's wife was informed by police officers that her husband and his

brother were not in detention. While Ali Ulvi Uludogan was undergoing a medical examination, a plain-clothed police officer remained in the examination room and that without examining him or his brother, the doctor wrote a report which made no mention of the visible injuries on their faces and bodies.

1771. The Government informed that on 23 May 2003 at 11pm, the Ankara District Traffic Station was informed that a car traveling from Ankara to Gölbasi town was driven by an intoxicated person. At risk to officers' lives, the car failed to stop twice, and was finally stopped at a red light in the city-centre. The occupants were asked for necessary documentation and to submit to a roadside alcohol test. The two men resisted, and they were taken to the Kulu State Hospital to be tested. They men insulted and threatened the officers and the doctor at the hospital. The tests were positive of intoxication, and they were charged. Upon the orders of the Public Prosecutor, they were detained and their sister was informed. A search of the car uncovered a firearm and ammunition. The medical examination report of Ali Ulvi Uludogan, dated 25 May 2003, stated that he was intoxicated, had a bleeding wound on his upper lip and a bruise on his right shoulder; non-grievous injuries. Another report dated 26 May 2003 indicated that there was no trace of ill-treatment except those indicated earlier. The medical examination of Ilhan Uludogan, dated 25 May 2003, indicated that he was intoxicated and there was no trace of ill-treatment. The second report of 26 May confirmed this. The brothers were released upon the ruling of the Public Prosecutor's Office. Ilhan Uludogan underwent a medical examination at the Ankara Forensic Medicine Institution on 27 May, and the report indicated that his health was impaired from carrying out regular labour for three days. Ali Ulvi Uludogan was reexamined at the same institution on 6 June, and the report indicated that his health was impaired for 15 days. With the latest medical results, they filed a complaint against the police officers and the doctor in Kulu at the Ankara Public Prosecutor's Office. A decision of non-competence was adopted because the incident took place in Kulu, and was referred to the Kulu Public Prosecutor's Office. An investigation by the Kulu Public Prosecutor's Office resulted in a decision of non-prosecution against the police officers and the doctor. However, a lawsuit filed at the Kulu Penal Court of First Instance against them is pending. Upon the order of the Kulu District Governor's Office, dated 16 June 2003, a preliminary investigation into the allegations of ill-treatment was conducted. No convincing reason for filing an official administrative investigation was found.

1772. **H.B.**, age 16, and **A.A.**, age 18. The two were arrested on 11 December 2003 and taken to Alsancak police station. There, they were beaten by the police and had their hands smashed against a window and their noses broken. It is also alleged that they were denied food while in custody.

1773. The Government informed that there is no record of these persons in the files of the Izmir Security Directorate. Full names of these persons should be communicated so a more detailed investigation could be undertaken.

1774. By letter dated 30 September 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received the following allegations, to which the Government responded by letter, dated 14 December 2004:

1775. Ms. **Hacer Taþarsu**, a 23 year-old woman. She was held in detention between 8 and 11 March 2002 at the Anti-Terror Branch of Istanbul police headquarters on suspicion on membership of an illegal organization. While in custody, a stream of water was 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 Faith, Istanbul. Her lawyers requested that she be sent from prison for psychological treatment.

1776. The Government informed that she was taken into custody by Istanbul Security Directorate on suspicion that she was a member 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 of the complainant and suspects were taken. The report of the Forensic Medicine Institute, dated 11 March 2002, was examined, and the Public Prosecutor decided non-prosecution on 29 August 2002. An appeal was rejected by the Beyoglu 3rd Assize Court on 17 January 2003.

1777. Ms. **Zahide Durgun**, a 28 year-old Kurdish woman from Hakkâri married to an Iraqi man and was living in Iraq. She returned to Turkey without her official documents to visit her family. On 20 August 2002, Zahide Durgun, her two brothers, a visitor to the house, and her brother's son, Savaþ, were arrested and taken to the Anti-Terror branch of Hakkâri police headquarters. Police wanted her to make a statement that she was an active member of the Partiya Jinmên Azad (PJA, also known as KADEK) and that she had come to Turkey to make propaganda before the elections. 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 heard her brothers yelling and being tortured in the nearby cells. Zahide Durgun, who does not read or write, eventually had her thumb-print 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 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.

1778. The Government informed 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. Zahide Durgun 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 medical examinations before and after the detention period, on 20 and 24 August, respectively. The second medical report indicated a light 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 occurred.

1779. Ms. **Sükriye Beyter**, a Kurdish woman. She was taken into custody at the Anti-Terror branch of Hakkâri police headquarters on 22 August 2002, where she was kept for four days, during which she had her hair pulled and torn out, her head was 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. She had her throat squeezed with an electric cable, was

blindfolded and had a handkerchief stuffed into her mouth to prevent her from making noise, she was threatened with rape, insulted, and promised money if she confessed. When she refused money, she was beaten again and threatened with rape and electric shocks to her breasts, that her children would be killed, and that she would be killed and her body would be thrown into the river. Sükriye Beyter was taken to the doctor twice whilst she was in custody, but it is alleged that no report resulting from her examinations has been forthcoming.

1780. The Government informed that she 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 the 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 of non-prosecution for lack of credible and substantiating evidence.

1781. Ms. **Naciye Cogaltay**. She was detained at the Anti-Terror branch of Istanbul police headquarters between 23 and 27 September 2002. When she refused to sign a statement, she was grabbed 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 poured over her. Three policemen stripped her naked, and blindfolded her. She was forced to remain naked for half an hour and was fondled all over and threatened with rape. She was asked whether she is a virgin, and then was subjected to a simulated rape. Her face was stroked whilst she was threatened with having a hose inserted inside her. She wanted to vomit but was told she would have to lick it up. Water was poured in the direction of her vagina and comments about her menstruation were made. She was given electric shocks twice. A policeman squatted in front of her whilst her hands were bound, and tried to force 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. Naciye Cogaltay was examined by a Forensic Medical Institute doctor, who 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.

1782. Ms. **Sunay Yesildag.** She was 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 one male police officer started moaning and making noises as though he was having sex. The same person swore continuously, and repeatedly opened Sunay Yesildag's mouth and spat into it. As Sunay Yesildag retched, other other officials held her hands behind her back, and hit her repeatedly on the head to prevent her from spitting out the saliva, as a result of which she became dazed and confused. She was grabbed by the hair and thrown to the ground. She was asked whether she was a virgin or not, and insulted. She was deprived of sleep, food and drink, and blindfolded at various times. She was told to strip, and was sworn at and teased by the officers. 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, Sunay Yesildag was taken naked to the toilet and sprayed with cold pressurized water. On the third day in custody, she was stripped naked and sexually assaulted again. She was threatened with anal rape using a hose. On 27 September 2002 she was remanded to Bakirköy Women and Children's Prison Source. A forensic doctor examined

her. A case was opened against the perpetrators, who have not been suspended from active service.

1783. The Government informed that the women 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 Heavy Penal 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.

1784. By letter dated 6 October 2004, the Special Rapporteur notified the Government that he had received allegations concerning Mr. **Hojjat Zamani** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, para. 1760. See also, para. 844). According to allegations recently received, he was forcibly returned to Iran from Turkey in November 2003. He was tried at Branch six of Tehran's Revolutionary Court for terrorist-related offences, and sentenced to ten years' imprisonment and four death sentences. Before he escaped from custody and fled to Turkey, Hojjat Zamani was severely tortured.

1785. By letter dated 6 December 2004, the Government informed that according to an additional enquiry (see reply dated 6 January 2004, para. 1798) recently carried out by the Directorate of Security of the Ministry of Interior, no entry was found in the relevant records since August 2003, suggesting that Hojjat Zamani had neither entered or left Turkey, nor was taken into custody in the country.

Urgent appeals

1786. On 17 March 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 violence against women and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding three Iranian nationals: **Farideh Asadi**, **Nazila Mohamad Hasani Zamani** and **Soheila Pordel**, who have been seeking asylum in Ankara. According to the allegations received, they are due to be deported to 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, they participated in public conferences and meetings in the defence of women's rights in Iran, expressing criticism against the Iranian Government, and calling for strikes against it.

1787. By letters dated 29 March and 20 April 2004, the Government informed that the request for asylum of the above-mentioned persons was refused by the UNHCR Office in Ankara, but a reassessment of Soheila Pordel'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.

1788. On 21 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding regarding

Hamza Uzar, an electrician, **Yildiz Dundar**, **Ali Alp** and **Sedat Aras**. According to the allegations received, on 17 July 2004, they were detained by police on suspicion of aiding and abetting an armed organization, the KONGRA-GEL (formerly known as the Kurdistan Workers' Party, or PKK). They were initially detained at Hamza Uzar's house in the Cizre area of Sirnak province and are now held in Cizre Police Headquarters. Their detention has been extended from two to four days. One of the lawyers was able to meet with Hamza Uzar on 18 July 2004. Hamza Uzar appeared greatly distressed and had marks on his face, throat and neck apparently caused by beating, and had great difficulty in speaking, or standing and walking unassisted.

1789. By letter dated 22 September 2004, the Government informed that the police in the town of Cizre, Sirnak, received an intelligence suggesting that members of the PKK-KONGRA-GEL terrorist organization arrived at the town from the Gabar Mountains, to carry out an armed attack to the "Sehit Murat Akançay" Police Station and the local courthouse. Mr. Alip Alp and Ms. Yildiz Dündar were apprehended in the vicinity of the police station on 17 July 2004. They were accompanied by a 12 year-old child, in order to give the impression as if they are commuting as a family. Contrary to the allegations, they were not arrested at the house of Mr. Hamza Uzar. Since it was established that Mr. Hamza Uzar aided and abetted the two persons, the police searched his house, and apprehended him together with another member of the organization, Mr. Sedat Aras, who was then present at the house. Mr. Hamza Uzar resisted and attempted to use a gun to shoot at the policemen, who were compelled to use force to apprehend him. With the decision of the Public Prosecutor's Office at Cizre on 18 July 2004, the custody period of the four suspects were extended to four days. After the end of the custody period, the suspects were remanded in prison by the decision of the First Instance Penal Court on 21 July 2004. All four suspects received medical examinations before, during and after the custody period. The medical reports indicated no traces of ill-treatment for three of the suspects, whereas, the report for Mr. Hamza Uzar indicated a 3cm lesion on his body. This had occurred during his forceful apprehension by police.

1790. On 6 August 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 independence of judges and lawyers and the Special Representative of the Secretary-General on human rights defenders, concerning **Abdulhekim Gider**, a lawyer, **Abdullah Gündogdu**, **Tahsin Atak**, and **Ihsan Gülmek**. According to the allegations received, on 30 July 2004, police detained Abdullah Gündogdu, Tahsin Atak and Ihsan Gülmek in the Pervari district of Siirt Province, on suspicion of aiding and abetting an armed organization, the Kurdistan People's Congress (Kongra-Gel), formerly known as the Kurdistan Workers' Party (PKK). Their lawyer, Abdulhekim Gider, came to meet with them at the police station in Pervari on 1 August. While he was waiting, a police officer asked him, "How can you defend traitors? This lot are terrorists...haven't you got a conscience?" When Abdulhekim Gider saw him, Abdullah Gündogdu appeared exhausted and scared and could not stand upright. He said that he had not been given any food since the day he was detained, and that he had been stripped naked and sprayed with cold pressurized water for two-and-a-half hours, especially at his kidney area. He said that he had also had his testicles squeezed and was beaten about the head. Tahsin Atak and Ihsan Gülmek only said that they had not been given food, but they both appeared tired and frightened. Tahsin Atak later complained that he had been severely beaten on his body and legs. When his lawyer met with him in prison, there was still blood on his legs and socks from this. That day, Abdulhekim Gider tried to lodge a complaint that Abdullah

Gündogdu had been tortured, but the Pervari prosecutor was reluctant and tried to persuade him not to do so. When he returned to the prosecutor's office on 2 August, a police officer pointed his rifle at the lawyer and said to another officer, "I might accidentally pull the trigger". When Abdulhekim Gider went back to the police station to meet with his clients the same day, he says he was prevented from entering by seven or eight police officers, including the local police chief, who surrounded him and apparently insulted and threatened him, because he had lodged a complaint of torture against them. After he appealed to a senior police officer who came to the station, Abdulhekim Gider was allowed to meet with his clients. As the lawyer left the police station, one of the police officers who had earlier threatened him told him, "Your job is not going to be easy any more." When Abdulhekim Gider asked what this meant, the police officer told him, "Go away! I don't want to see you again. Bad things happen, and they are going to happen." Police have pressured the detained men's relatives to change their lawyer, and police officers in Pervari are reported to have threatened Abdulhekim Gider since then. Groups of police have followed him in the street, and police vehicles have patrolled conspicuously outside buildings where he has been conducting meetings with the families of his clients. Abdullah Gündogdu, Tahsin Atak and Ihsan Gülmek were all remanded to Siirt prison at 11 pm on 3 August.

1791. By letter dated 14 October 2004, the Government informed that Mr. Gündogu, Mr. Atak and Mr. Gülmek, who were, among other things, suspected of committing crimes of aiding and abetting the PKK/KONGRA-GEL terrorist organization, were detained on 30 July 2004 at around 12pm in Pervari, Siirt. They underwent medical examinations on the day of their committal to the detention centre, they were informed of their legal rights and relevant documents were prepared accordingly. The suspects were taken to the Office of the Public Prosecutor on 3 August 2004. Shortly after leaving the detention centre, they underwent a second medical examination at the Pervari State Hospital. Following their interrogation by the Public Prosecutor, they were referred to the Criminal Court of Peace at Pervari. The Court decided for their arrest on grounds of aiding and abetting a terrorist organization. They were then committed to the prison in Siirt. The legal proceedings are underway. The allegations that the detainees had not been given food is incorrect, since the detainees themselves rejected to eat the food served to them by the police, apparently for ideological purposes. The lawyer of the detainees, Mr. Abdulhekim Gider, filed a complaint with the Public Prosecutor's Office on 1 August 2004 on grounds that his clients were subjected to ill-treatment. The investigation concluded with a decision of non-prosecution, given that the medical reports obtained before and after the detention period indicated no trace of ill-treatment. Mr. Gündogu appealed against this decision. The appeal is being considered by the Batman Heavy Penal Court. In the meantime, the three detainees were visited by Mr. Gider on 1 and 2 August. He did not appear during the interrogation of the suspects despite being informed of the time and venue of the interrogation. Meanwhile, before his second visit, while entering the police station with two black plastic bags, he was asked to present his identity card. He refused, and an argument broke out between him and the security officers on duty, during which he threatened the officers.

Follow-up to previously transmitted communications

1792. By letter dated 9 February 2004, the Government provided further information concerning **Salih Yilar** (E/CN.4/2004/56/Add.1, para. 1732-1733). The Government informed that he was examined by the Forensic Institute, which found no traces of electric

shocks on his body as alleged. In the hearings, he stated that the two accused policemen were not the ones who took him under custody. The witnesses, including the lawyer on duty on 14 May 2002 at the Diyarbakir Branch of the Human Rights Association, the attending doctors and the police officers, stated in their testimonies that they did not personally witness the circumstances which caused the injuries on Salih Yilar. The Court acquitted the accused on 31 October 2003, and the decision was finalized on 10 November 2003.

1793. By letter dated 22 December 2003, the Government provided concerning **Irfan Kaplan** (E/CN.4/2002/76/Add.1, para. 1606). The Government informed that an investigation was initiated against the prison administration personnel and Wardens at the Ümraniye Prison, as well as the law enforcement agencies. The investigation regarding the prison administration personnel and Wardens concluded with a decision of non-prosecution. The other investigation regarding the law enforcement agencies is still underway.

1794. By letter dated 23 December 2003, the Government provided further information concerning **Tekin Ülsen** (E/CN.4/2002/76/Add.1, para. 1621, 1645-1646). The Government informed that he attempted to commit suicide by cutting his wrist before being apprehended. The relevant medical reports did not indicate any trace of ill-treatment or torture. He is held in prison, and his trial is continuing, the next hearing is to be held on 31 December 2003.

1795. By letter dated 23 December 2003, the Government provided further information concerning **Halil Ibrahim Okkal (**E/CN.4/2000/9, para. 1052, E/CN.4/2000/9/Add.5, para. 89, and E/CN.4/2002/76/Add.1, para. 1626). The Government informed that his application for compensation was rejected by the Court of Cassation for lapse of time. Halil Ibrahim Okkal applied to the Ministry of Interior for redress on 1 October 1999, and the medical reports of his ill-treatment were dated 30 November 1995 and 30 January 1996. The Ministry thus refused his application as it contravened Article 13/1 of the Administrative Procedural Law (Law No. 2577). Halil Ibrahim Okkal then filed a lawsuit at the Administrative Court in Izmir on 22 November 1999 for compensation. The Court delivered a judgement of nonsuit on 11 April 2000, and the appeal against this decision was dismissed by the Council of State on 12 December 2001.

1796. By letter dated 2 January 2004, the Government provided information concerning:

1797. **Yener Aslan** and **Ipek Avci (**E/CN.4/2004/56/Add.1, para. 1744). The Government informed that upon their complaints a lawsuit was filed at the First Instance Penal Court No. 24 in Ankara, and that the next hearing will be held on 24 February 2004. By letter dated 5 May 2004, the Government informed that the medical reports, witness statements, authorization document and official records relating to the incident indicate that the acts of Yener Aslan and Ipek Avci constituted the crime of violent resistance to the officers. They were first sentenced to two months imprisonment, being the lowest limit of penalties set forth in article 258/1-3 of the Penal Code, and given the inappropriate behaviour of the police officers, through transcending the limits of their powers, in line with article 258/4 of the Code, the penalties were decreased by three quarters to 15 days' imprisonment. And in line with article 4 of the Law No. 647, the penalties were converted into a fine of 109,000,000 Turkish liras. Although it was understood that the police officers caused the incident with their rude behaviour, this does not constitute the crime of "intentional ill-treatment" as set forth in article 245 of the Penal Code. The intention of the accused was merely to execute the

provisions of law and order for the persons who impeded the execution of their duty. Therefore the Court in its verdict of 16 March 2004 acquitted the officers of the charges of ill-treatment.

1798. **Tekin Demir** (ibid, para. 1751) and **Jale Kirman (**ibid, para. 1747). The Government informed that upon their complaints, the Ministry of Justice initiated an investigation, which is continuing.

1799. By letter dated 6 January 2004, the Government provided information concerning **Hojjat Zamani** and **Massoud Moqtadari** (E/CN.4/2004/56/Add.1, para. 1760). The Government informed that according to the enquiry carried out by the competent authorities, no record indicating the entry into Turkey of the two individuals was established. No record of any persons with those names was found in the register of the Directorate of Security of Istanbul.

1800. By letter dated 7 January 2004, the Government provided information concerning **Medeni Kavak** (E/CN.4/2003/68/Add.1, para. 1777). The Government informed that upon his application, the Prosecutor's Office in Diyarbakir initiated an investigation into his allegations of torture in detention. The investigation was concluded with a decision of non-prosecution on 30 January 2003, due to lack of evidence. This was appealed on 27 May and a lawsuit was filed at the Diyarbakir Heavy Penal Court. The first hearing took place on 20 November and the second scheduled for 18 December 2003.

1801. By letter dated 7 January 2004, the Government provided further information concerning:

1802. **Vasfi Karakoç** (E/CN.4/2000/9, para. 1042, and E/CN.4/2000/9/Add. 5, para. 83). The Government informed that the allegations of ill-treatment were thoroughly investigated and no evidence was found, and a decision of non-prosecution was adopted.

1803. **Ali Ekber Öz** and **Nuran Öz** (E/CN.4/2000/9, para. 1047, and E/CN.4/2000/9/Add. 5, para. 87). The Government informed that until the allegations of the Special Rapporteur were presented to the relevant Turkish authorities, the persons in question did not apply to the Court or any other national authority during or after the judicial proceedings on the grounds of ill-treatment which was alleged to have happened on 2 October 1994. Upon the receipt of the communication of the Special Rapporteur, the Ministry of Justice transmitted their content to the relevant Public Prosecutors, who initiated investigations. In the course of the investigation, Ali Ekber Öz, in his statement to the Office of the Public Prosecutor in Bursa on 16 November 2001, affirmed that he did not apply to any authority on the grounds that he was ill-treated when he was detained, nor did he mention any medical report prepared to the contrary. Therefore the Office of the Public Prosecutor adopted a decision of non-prosecution and transmitted the file to the Office of the Public Prosecutor in Antalya, where the file was again reviewed. The Office decided that since the date of the alleged crime in 1994 and the investigation in 2001, there was a lapse of time based on article 102/4 of the Turkish Penal Code. This decision, dated 28 December 2001, was transmitted to Ali Ekber Öz the same day, and since there was no objection, it became final. A similar decision in relation to Nuran Öz was adopted on 17 November 2003. There was no evidence, medical report or testimony supporting the allegations. Nuran Öz was released after serving her sentence.

1804. By letter dated 9 February 2004, the Government provided further information concerning **Metin Yurtsever (**E/CN.4/2002/76/Add.1, para. 1615, and E/CN.4/2003/68/Add.1, para. 1853). The Government informed that the last hearing of the case was held on 12 December 2003. The Court decided that since the addresses of certain witnesses could not be established, the Court ceased the decision to hear them. Further it decided to request the Duty Heavy Penal Court of Ankara to enlist three experts from the Turkish Radio and Television Corporation to examine the video cassettes shot on the day of the incident together with the photographs of Metin Yurtsever, have the experts determine whether he appeared in the scenes and suffered blows, and to send all shots in which he appears to the court in the form of single photographs. As the photographs have not yet been submitted to the Court by the lawyers of Metin Yurtsever, the experts have not begun their work. The case was adjourned until 19 March 2004.

1805. By letter dated 12 May 2004, the Government provided further information concerning **Gülistan Durç** (E/CN.4/2003/68/Add.1, para. 1798, E/CN.4/2004/56/Add.1, para. 1775). The Government informed 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 of non-prosecution. As for her complaint against the police officer for allegedly ill-treating her, the Public Prosecutor's Office decided to initiate an investigation, yet 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 Heavy Penal Court was rejected. On 4 September 2001, the lawyer of Gülistan Durç presented a new medical report which was obtained from the Izmir Chamber of Medicine to the Public Prosecutor's Office. The Office decided to reinitiate the investigation in accordance with article 167 of the Penal Procedural Code.

1806. By letter dated 27 May 2004, the Government responded to a joint communication of 3 July 2003 sent with the Special Rapportueur on violence against women, concerning **Gülbahar Gündüz** (E/CN.4/2004/66/Add.1, para. 156). The Government informed that the Office of the Public Prosecutor in Gaziosmanpasa initiated an investigation upon the complaint by Ms. Gündüz. 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, Ms. Gündüz was sent by the police to Haseki Hospital for medical examination on 15 June 2003. According to the medical report, superficial grazes were found on her body. In order to establish whether she was sexually assaulted, she was then transferred to the specialized branch of the Forensic Science Department, where she received due medical examination. The Office of the Public Prosecutor requested in writing, from the Security Directorate of Istanbul, to identify the police officers on duty and persons working in and around the area of the alleged abduction, to establish the identities of the perpetrators and to investigate whether or not the alleged perpetrators 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 Ms. Gündüz was taken. She repeated the allegations, but indicated that she could not identify the persons who assaulted her since she could not see their faces. Therefore, it was not possible to find out 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. Because of the foregoing, since no security official was accused at this stage, the administrative investigation was lifted. In the light of the foregoing, two separate investigations were initiated upon the complaint of Ms. Gündüz. 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.

1807. By letter dated 21 June 2004, the Government provided information concerning:

1808. **Ridvan Olcasöz**, **Fahri Kini**, **Semsettin Solhan**, **Ramazan Akman**, and **Salahattin Örnek** and **Savas Yildiz (**E/CN.4/2004/56/Add.1, para. 1736). The Government informed that on 3 November 2002, Ridvan Olcasöz, Fahri Kini, Semsettin Solhan, and Ramazan Akman, while present as election observers in the primary school being used as a voting centre, in Yüceli Village, insisted that they should stand in front of the ballot boxes while people were voting. The Chairman and members of the Election Committee responsible for organizing and monitoring the election in that district refused this request. When the aforementioned persons persisted, the Chairman of the Election Committee officially asked them to leave the voting room. Their violent resistance led to a public disturbance in the voting room. Following the incident, Ridvan Olcasöz, Fahri Kini, and Semsettin Solhan were sent to the public hospital. Upon the application of Ridvan Olcasöz, Fahri Kini, Semsettin Solhan, and Ramazan Akman, an investigation was initiated by the Public Prosecutor. Salahattin Örnek and Savas Yildiz applied to the Office of the Public Prosecutor in Kiziltepe and alleged that a group of people had obstructed their voting. A lawsuit was filed upon their application.

1809. **Hamdiye Aslan**, (ibid, para. 1726). The Government informed that in connection with the discovery on 4 March 2002 of documents related to a terrorist organization, Hamdiye Aslan and Abdullcadir Aslan were arrested on 5 March 2002 around 4:30pm by gendarmerie officers of the Yüceli district, and handed over at 7:30pm to the Mardin Directorate of Security. Hamdiye Aslan was kept under custody at the Mardin Directorate of Security from 5 to 7 March 2002. During the detention, she refused to give any statements regarding the crime attributed to her, refused to sign any document, argued that she did not know any of the other detainees held with her, persistently and violently resisted the police officers who wanted to take her fingerprints and photos for the records, and refused the food and drink served to her. Because of her abnormal behavior and concerns regarding her health for refusing the food, she was taken to the Mardin State Hospital on 6 March 2002 at around 8:30pm. During the medical examination at the Emergency Service, her illness was diagnosed as "conversion" (deception). Hamdiye Aslan and Abdullcadir Aslan were referred to the Mardin Penal Court by the Mardin Public Prosecutor's Office, and following the Court's decision they were transferred to the Mardin E-Type Prison. The medical reports obtained during their detention of 5 and 7 March 2002 indicated no trace of ill-treatment or sexual harassment. Upon her complaints alleging that she was ill-treated during the detention an investigation was initiated by the Public Prosecutor's Office. Following the investigation a lawsuit was filed against 5 policemen at the Mardin Heavy Penal Court No. 2. The case is underway.

1810. **Ethem Akdogan** and **Hatice Allahverdi** (ibid, para. 1748). The Government informed that an investigation was initiated regarding the allegations of torture during their detention. The related medical reports did not confirm these allegations. Since they did not file any complaint to the Public Prosecutor's Office, a decision of non-prosecution was adopted.

1811. **Emrullah Karagöz** and **Mustafa Yasar**, (ibid, para. 1737-1738). The Government informed that the decision of non-prosecution was appealed at the Siverek Heavy Penal Court, which declined the appeal on 16 April 2003.

1812. By letter dated 6 December 2004, the Government provided information concerning **Nese Bilgin** (ibid, paras. 1752 and 1753). The Government informed that the trial of the two police officers 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 the Adnan Menderes Airport on the day of the alleged incident.

Turkmenistan

1813. By letter dated 18 June 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning:

1814. **Amanmuhamedov Yklymov** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, para. 1789). All contact with or news about Amanmuhamedov Yklymov stopped on 20 February 2003. He reportedly died as a result of torture in March 2003 while he was still in custody.

1815. **Alexei Prokofiev**. He was arrested on 26 or 27 November 2002, suspected of having allowed Yklym Yklymov, the older brother of Amanmuhamedov Yklymov (see above) to hide at his home. Upon arrest, he was tortured in order to reveal Yklym Yklymov's whereabouts. Alexei Prokofiev died in custody in December 2002.

1816. By letter dated 18 June 2004, the Special Rapporteur notified the Government that he had received allegations concerning **B. S.**, a child of Uzbek citizenship living in Grulanskij district. On 14 April 2003 he was herding cows and sheep near the border between Uzbekistan and Turkmenistan, when he was caught and beaten by Turkmen border guards. On the following day, he was found unconscious by his parents. He was taken to the hospital where he was diagnosed with a dislocated shoulder, and a broken leg and finger. An enquiry was begun upon his father's request by the Public Prosecutor. The Turkmen authorities, who were asked to start an enquiry, turned down the request. On 3 May 2003, nine members of the boy's family went to the Turkmen border post and asked for the culprits to be punished. The border guards responded with warning shots in the air.

Urgent appeals

1817. On 16 February 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 the right to freedom of opinion and expression, regarding **Gurbandurdy**

Durdykuliev, a critic of the Government's policies. According to the allegations received, he was forcibly confined to a psychiatric hospital in the town of Nebitdag, in the Balkan region, on 10 February 2004. He was confined solely for the non-violent expression of his political views.

1818. On 4 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 right to freedom of opinion and expression, regarding **Rakhim Esenoy**, a 78 year-old journalist, **Igor Kaprielov**, his son-in-law, and **Ashirkuli Bayriyev**, a journalist. According to the allegations received, Rakhim Esenov was summoned to the Ministry of National Security (MNB) on 23 February 2004, accused of smuggling 800 copies of his banned novel Ventsenosny Skitalets ("The Crowned Wanderer") into Turkmenistan. During questioning Rakhim Esenov suffered a stroke and was taken to hospital. He was already in poor health before his detention, having recently suffered a heart attack.Two days after his stroke he was interrogated again and placed in an intensive care unit in hospital, where he was under the strict control of the Security Service. The following day at approximately 1pm Security Service officers took him away from the hospital and the investigator told his daughter that he had been arrested and put into the MNB's investigation-isolation prison. On 23 or 24 February Igor Kaprielov was taken to the MNB and accused of conspiring with Rakhim Esenov in the smuggling of the books. His whereabouts are now unknown. Ashirkuli Bayriyev was summoned to the MNB in the evening of 1 March, possibly because of his close relationship with Rakhim Esenov. It is reported that almost four hours later an MNB officer called his wife to inform her that her husband had been arrested.

1819. On 28 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 the freedom of opinion and expression, regarding **Khalmurat Gylychdurdyev**. He is a radio correspondent and a regular contributor to *Radio Liberty.* According to the allegations received, he was detained by officers of the Ministry of National Security (MNB) on 23 June 2004 and is now believed to be held in incommunicado detention. He was seen for the last time on the morning of 23 June 2004 when he went to the eye hospital in Ashgabat for a check-up. The hospital staff later told his daughter that when he left the hospital he was taken away by three men in a car. His relatives went to the MNB building on 23 June to search for him, but were not given any information. The officer on duty that evening told them that Khalmurat Gylychdurdyev was talking to "the boss". Since Khalmurat Gylychdurdyev started to give interviews to *Radio Liberty* several months ago he has been summoned to the MNS several times. An MNS official urged him to praise President Niyazov in his interviews, and he was told to stop his contact with the radio station if he wanted to avoid any repercussions.

1820. On 30 June 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Vepa Tuvakov** and **Mansur Masharipov**. According to the allegations received, they were arrested in their home town of Dashoguz, near the border with Uzbekistan, in May 2004 and sentenced to 18 months' imprisonment for refusing military service on religious grounds. Both young men are Jehovah's Witnesses, whose faith forbids them to serve in the army. Reports indicate that Turkmen conscientious objectors have in the past been beaten in detention and threatened with repercussions if they did not renounce their faith.

Uganda

1821. By letter dated 18 June 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1822. **Rasheed Kawawa**, a 24-old-student from western Uganda studying in Kampala. He was arrested on 14 July 2001 and beaten with 1.5m long plastic canes. His hands and feet were tied together behind his back (which is known as the kandoya technique) for four consecutive days, and suspended in this way for an entire night. He was subjected to a similar treatment for three months after which he admitted what his interrogators wanted him to state. He was brought to the Magistrates' Court on Buganda Road on 3 October 2001 and charged with treason and misprision, including belonging to the Allied Democratic Forces (ADF) rebel group. It is reported that murder and terrorism charges were added later, but no additional statements were signed by him. He applied for amnesty and was released in January 2004.

1823. **Christopher Egesa Ochieng**, age 32. He was arrested by two soldiers near Jinja on 17 July 2002, when returning from the burial of a man who died in prison. He was taken to a safe house in Kampala, which was believed to be the then headquarters of Operation Wembley. A bucket of water was poured over him, he was made to lie down, face up, and his head was covered with a black plastic bag. Someone jumped so hard on his stomach that he lost his breath. He was kicked, tied up, and put inside a vehicle, where his shirt was tied over his head. He was taken to another safe house where he was repeatedly hit in the head with a rod. On the second night of custody, he was placed in a sink for bathing, a wire was put around his penis, and it was tightened until he fainted. He was beaten on the mouth and nose until he bled. He was tied by both hands to one side of a window and hit with a cable and wooden rods. On other occasions he was hit with ropes on his legs, his penis was tied with a cable, and a piece of plywood with three nails protruding was "hammered" into his chest. Some months later he was taken to Makindye Uganda Peoples' Defence Forces (UPDF) barracks in Kampala. He did not receive any medical treatment except for penicillin and aspirin and was not seen by any medical worker while in Operation Wembley. One year later, it is reported that scars on his back are visible and that his penis is permanently deformed. He was warned that he would be killed if he talked about the way he had been treated. He was taken to court on 17 September 2002, and charged with aggravated robbery and terrorism. A UPDF defense attorney was appointed for him.

1824. **Ibrahim Lwere**, age 49. He was arrested on 5 August 2002 and kept for several days in Operation Wembley headquarters. He was beaten on his buttocks with a stick which had a nail in it and on his back with a blunt instrument. The scars he sustained on his back took four months to heal. His wrists were tied tightly with rope, and that his left wrist was cut with a saw. He received no medical treatment and had to sleep on cement floors, both there and during months in custody in Makindye barracks, Kampala, where he was detained from 9 August to 16 October 2002. At Makindye he was held in an overcrowded cell with no toilets, no blankets, no visits and no communications. On 16 October 2002, Ibrahim Lwere was brought before a court martial inside Makindye barracks and charged with desertion from the army in 1987 and treason. The charge of treason was withdrawn and the court punished him with a warning. On 20 May 2003, Ibrahim Lwere presented a complaint in writing to the Parliamentary Committee for Defense and Internal Affairs. He was released with a warning in

October 2003. Ibrahim Lwere was elected to local positions in the outskirts of Kampala in 1988, elected in 2001 to the sub-county council, and campaigned in support of opposition candidates for the President in 1996 and 2001.

1825. **Ibrahim Bullu Lubega** (also known as Bull). He and his wife were taken to Mbarara barracks on 24 August 2002. While his wife was released shortly thereafter, Ibrahim Bullu Lubega was taken to Operation Wembley headquarters at Clement Hills Road in Kampala. He was beaten here with batons, stabbed in the leg with a bayonet, and had water forced into his mouth. He was kept at Clement Hills for 14 days and then sent to Mbuya barracks for another two weeks. He was charged in September 2002 in a court martial with terrorism and belonging to a rebel group. The military judge dismissed the case against him for lack of evidence and said that the case should be transferred to a civil court. Ibrahim Bullu Lubega was transferred to Kigo Prison and charged on 13 February 2003 with treason in the Magistrates' Court and sent to Luzira Prison.

1826. **Steven Wilson Mukama**, a 52 year-old pharmacist. On the night of 2 September 2002, armed men searched his house near Kampala, took away some property, blindfolded and took him to several places, including the Chieftaincy of Military Intelligence (CMI) headquarters and the Operation Wembley headquarters. No warrants were produced. While in custody at the CMI headquarters, his elbows were tightly tied behind him and he was beaten. On the following morning, eight men in plain clothes with boots kicked him all over his body while he was on the ground, including in the scrotum, crushing his left testicle. He was left for another six hours and, when he revived, he was pistol-whipped on the right side of his head. On 3 September 2002 he was transferred to the army barracks at Mbuya and locked in cells with soldiers. He stayed there two weeks without access to any medical treatment. On 15 September 2002 he was taken to a police station and signed a statement under duress, fearing more torture. Despite being a civilian, he was charged in a court martial with terrorism on 16 September 2002. His case was later transferred to a civilian court and on 18 September 2002 he was reportedly transferred to Kigo Prison, where he eventually received medical assistance. He was charged in a civilian court in February 2003 of plotting to overthrow the Government and of forming a rebel group called the National Democratic Alliance (NDA) between May and December 2002, although he was locked up four of these eight months.

1827. **Nicholas (Ruzinda) Luzinda**, a nursing assistant. He was arrested on 3 September 2002, at work by men in plain clothes, and taken to UPDF headquarters at Mpigi, southwest of Kampala. For most of the time until he was charged with terrorism on 16 September 2002, he was kept in CMI safe houses, where he was beaten and threatened with death. He was later transferred to Operation Wembley headquarters in Kampala, where he was put in a cell that was only two feet high, so that he had to lie down, and there were others inside the cell. In Kampala he was subjected to further death threats. Along with another man, he was blindfolded and taken to CMI headquarters, where he was put in a small room with blood on the floor, small bloody ropes, and a few plastic bags. During a second transfer he tried to escape. He was then severely beaten with canes on the right buttocks, leaving a deep scar. On the same day, he was taken to a safe house in the Kololo neighborhood of Kampala, which is believed to be a CMI location. He was held there for two weeks without receiving medical treatment. On 15 September 2002 he was taken for the day to Makindye barracks, and on the following day, to a military court, where he was charged with terrorism. On 14 February 2003, his case was sent to a civilian court with the charge of treason. He was remanded to

Kigo Prison, where he received medical care for the first time since his arrest. He is said to have filed a petition for amnesty.

1828. **George Kasozi**, a 70 year-old former local chief in the Kabaka Government. On 16 September 2002 he was arrested at gunpoint by four men in a double cabin truck, and blindfolded with his own shirt. A rope was put around his neck, his body searched, and money taken from him. Due to high blood pressure, he lost consciousness when he became frightened from being blindfolded. He was taken to a hospital, where he stayed for one week. He was later sent to a safe house in an unrecognized location, where he was held for about five months. He was confined to a room by himself for the first two months and then shared a room with another man. Both men were blindfolded outside of the room, including when going to the toilet. He was interrogated about the ministers of the Kabaka Government who had supported Kizza Besigye for president. In custody George Kasozi was kicked, and beaten on his head and body with blunt instruments. Water was poured over him. In December 2002 the methods of torture became more severe. His arms were tied behind him, he was made to lie on the floor, water was poured over him, and he was left there in the puddle of water for one or two days. He was hit and pierced in the right buttock with a six-inch nail on a board, and slapped on his head with a board, which resulted in a loss of hearing. After making a statement at the Criminal Investigation Division (CID) headquarters, and being charged with treason in the Magistrates' Court on Buganda Road in Kampala, he was taken to Kigo Prison on 15 February 2003. He was granted bail.

1829. **Joseph Kizza Kibaate**. He was arrested in Masindi on 23 January 2003 by four men working for Operation Wembley. He was taken to Masindi police station and moved four days later to Operation Wembley headquarters in Kampala. Here he was questioned about a murder in 1997. For four days he was subjected to beatings, in particular with a cane and had water forced into his mouth while being beaten. He vomited water when he was beaten on the stomach with sticks. He passed blood in his urine and water leaked from his ears. His hearing is reported to be impaired now. A lawyer filed petition for habeas corpus on 23 April 2003 and he was released on bail.

1830. **Dan Mugarura** (cited in a previously transmitted communication, E/CN.4/2004/56/Add.1, para. 1800). He was arrested on 8 January 2003, and at the time of his arrest, he was blindfolded, and put in leg irons and handcuffs. In the car two armed security agents sat on him for two hours and he fainted. He awoke in an unknown hospital room and was transferred to another location, where he was interrogated about someone, who had been assigned to the diplomatic mission in Tanzania more than a decade before. During interrogation, Dan Mugarura was threatened with snake bites. His lawyer filed a petition for habeas corpus, and he was brought to the Magistrates' Court on 21 January 2003, charged with treason and misprision of treason, and remanded to Luzira Prison. He was released on bail for medical reasons in late 2003.

1831. By letter dated 28 June 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur notified the Government that he had received allegations concerning:

1832. **Mugisha Kafureeka**, a lawyer and a PhD candidate. He was arrested as he was leaving Makerere University on 19 April 2002 and taken to his residence by the police,

accompanied by 15 other vehicles full of agents belonging to the Chieftaincy of Military Intelligence (CMI), the Internal Security Organization (ISO), and members of the Criminal Investigation Division (CID). His house was searched without a warrant and some of his young cousins were arrested as well. He was officially held at the central police station in Kampala, but taken out on a daily basis to the headquarters of CMI to be questioned about his suspected activities with the Reform Agenda, and with rebels believed to be associated with them. On the second day of his interrogation he was whipped with a long cable made of rubber and wire, hit on the buttocks, the bottoms of his feet, and kicked in the back. He was returned to the police nightly and subjected to a similar treatment on the following days. After four days in detention his family took legal action, and his friends alerted the press. He was then taken to the CID to make a statement to the police, where he again denied everything. On the seventh day of captivity, he was taken to the Magistrates' Court and charged with treason and misprision of treason. He was transferred to Kigo Prison, and brought back to the Magistrates' Court every two weeks, at which time the magistrate would grant a request for another two-week postponement. On this basis, he was kept in Kigo Prison for one year. On the day he was released on bail in May 2003, he was re-arrested outside the court building by the CMI for further questioning and released a few days later after being kept in a garage at the Joint Anti-Terrorism Task Force (JATF), with several beaten prisoners. The prisoners were all released after an admonishment by the head of the JAFT and after the CMI warned him not to try to take revenge.

1833. **Charles Ekemu.** He was arrested at his home in Soroti in early January 2003 by plain clothes men, handcuffed, blindfolded, and taken to a vacant house. He was then driven to a building in Kampala. He sat alone for three days blindfolded, and was warned not to move or he would fall into a pit. He was forced to write an incriminating statement. Eight days after his arrest, he and others were taken to the CID headquarters, where they found nine Members of Parliament (MP) waiting for them in the office of the Minister of State Security. He was charged on 17 January 2003 with treason for plotting between 2001 and January 2003 to overthrow the Government, and with establishing the People's Redemption Army.

1834. By letter dated 15 July 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received information on **Patrick Mamenero Owomugisha**, age 25. According to the allegations received, he was arrested on 20 July 2002 from his home in Kabale, near the Rwandan border, with his father, Mzee Denis Mamenero. Patrick Mamenero Owomugisha died a few days later in CMI custody of a "subdural haemotoma" caused by a blunt instrument. At the time of his death, he was en route to the military hospital. The certificate of death was signed on 24 July 2002, by a doctor of Mulago Hospital. The CMI admitted that the detainee was hit by a CMI soldier on guard duty on 22 July 2002, but maintained that at the time Patrick Mamenero Owomugisha was trying to escape. The soldier (whose name is known to the Special Rapporteur) was arrested and charged with murder on 22 October 2002 in the UPDF court martial. However, he was granted bail. The CMI paid the Mamenero family about one million Uganda shillings (US $503) as condolences. The head of CMI faxed a statement that was read at the burial and which claimed that enemies of the Government entered the CMI offices and killed Patrick Mamenero Owomugisha.

1835. **David Pentyoo, Alex Otim, Tony Kitara, Aida Lagulu, George Obita, Francis Onen, Martin Ojara, Alex Okwerowat, Charles Picha, Justo Ojwiya, Michael Lakony,**

Jekeph Odong, Paul Akueh Okot, Federiko Ocan, Bosco Oti, Moses Atuku Akena and **George Abedo**, members of the Uganda Young Democrats (UYD) (cited in a previously transmitted communication, E/CN.4/2003/68/Add.1, para. 1862). They were transferred from military custody in Gulu municipality, northern Uganda, to Kigo prison in Kampala on 14 November 2002. They were imprisoned without trial on charges of treason. When they were allowed to see their relatives and lawyers, the detainees claimed that they had been tortured by security agents at the military barracks. Alex Otim and Joseph Odong were released and charges against them were dropped in November 2002. In February 2003, the High Court of Uganda ordered that the body of **Peter Oloya**, who was reportedly shot by soldiers of the Uganda People's Defence Forces (UPDF) in Gulu Central Prison in September 2002, be released to his family for burial. The High Court ordered that the State "pays to each of the surviving prisoners the sum of Uganda Shillings 10,000,000 (about $5,200) for the violation of their personal liberty and freedom from torture, cruel, inhuman and degrading treatment or punishment".

Observations

1836. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Human Rights Committee (CCPR/CO/80/UGA, paras. 17 and 18) about arbitrary detention in unanknowledged places by State agents, particularly in northern Uganda. Concern was expressed about widespread torture and ill-treatment of persons detained by the military, as well as by other law enforcement officials. The Committee noted the deplorable prison conditions, including overcrowding, scarcity of food, poor sanitary conditions and inadequate material, human and financial resources. Disciplinary measures, including corporal punishment, solitary confinement, deprivation of food, and the often non-separation of detained juveniles and women from adults and men, are matters for concern for the Committee.

Ukraine

1837. By letter dated 18 June 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning **Sergey Berdyugin**, age 22. On 1 November 2003, he died as a result of the treatment he was subjected to in custody at the District Department for Internal Affairs of Leninsky district and the Investigatory Isolation Ward of Nikolaev City, as well as the Investigatory Isolation Ward of Odessa, and in Odessa City Hospital No. 11. He was severely beaten and denied medical assistance. A forensic examination reported that the causes of death were anaemia of organs, retroperitoneal haematoma, a ruptured liver, and blunt abdominal trauma. Criminal proceedings in relation to his death, initiated in November 2003, are reportedly still open.

1838. By letter dated 11 August 2004, the Special Rapporteur notified the Government that he had received allegations concerning **Oleg Alekseyev**, **Nina Polskaya**, **Sergey Berdyugin**, **Andrey Yakovenko**, **Bogdan Zinchenko**, **Alexander Gerasimov**, **Evgeny Semenov**, **Anatoly Plevo**, **Ilya Romanov**, **Alexander Smirnov**, and **Igor Danilov** (cited in a previously transmitted communication).

1839. By letter dated 29 October 2004, the Government informed that Mr. Semenov, was released from custody on 19 July 2004 pursuant to a decision of the Odessa oblast court of appeal. On 19 July 2004, the Odessa oblast court of appeal sentenced the persons to various terms of deprivation of liberty on counts of murder, banditry, robbery, attempts on the lives of law enforcement officers, illicit trafficking in weapons, ammunition and explosives, and other serious offences. The sentence has not entered into force, since many have appealed their sentences to the court of cassation of the Supreme Court. The information concerning violations of the law committed by law enforcement officers was repeatedly verified by the procuratorial staff of Nikolaev, Odessa and Kherson oblasts and by the staff of the Office of the Procurator General of Ukraine, who made on-site inspections. On 25 September 2004, they were examined by doctors of the medical unit of the remand service, who found their health to be satisfactory. The aforementioned persons did not make any complaints about their health or medical care. With regard to the circumstances of Mr. Berdyugin's death on 1 November 2003 in Odessa municipal hospital No. 1, in order to prevent his escape as he was being escorted to the hospital, in accordance with Ukrainian law, special means - handcuffs - were used to restrain Mr. Berdyugin. During the operation and the post-operative period, Mr. Berdyugin was not handcuffed. However, bearing in mind the seriousness of Mr. Berdyugin's offences and information concerning a possible attack on the convoy with a view to freeing Mr. Berdyugin, the head of Odessa remand centre No. 21, in violation of article 18 of the Pre-Trial Detention Act, gave orders to handcuff Mr. Berdyugin to his hospital bed. Five employees of the Odessa remand centre, including the head of that institution, and two employees of the State penal enforcement department in Odessa oblast were subjected to disciplinary measures for the unlawful handcuffing of Mr. Berdyugin during his treatment as an inpatient in the municipal hospital. There were no traces of physical injuries on the corpse. The conclusion of the forensic medical expert (report No. 2697 of 3 November 2003) on the connection between Mr. Berdyugin's death and a blunt injury to the stomach was not confirmed, since there were no external traces of injury, and there is no forensic medical information concerning the possible rupture of the liver from the effect of another person's hand. The Malinovsky district procurator's office of the city of Odessa denied the institution of criminal proceedings against the doctors of Odessa municipal hospital No. 1 in connection with Mr. Berdyugin's death on the grounds of lack of evidence that they had committed a crime. In view of the fact that the doctors of the medical unit of the Odessa remand centre did not make the correct diagnosis, criminal proceedings were instituted on the grounds that the medical staff of that institution had not properly performed their professional duties, which led to the death of Mr. Berdyugin. In order to clarify all the circumstances of Mr. Berdyugin's death, a forensic medical examination was ordered; the examination established that the doctors of Odessa remand centre No. 21 had not correctly diagnosed Mr. Berdyugin's illness because they lacked the necessary diagnostic equipment and laboratories and also did not have the members of the militia who were involved in the arrest, preliminary investigation, criminal prosecution and detention of the aforementioned persons were questioned. They all categorically denied any unlawful treatment of the aforementioned accused persons. Beslan Kutarba and Revaz Keshikashvili, who were also questioned during the investigation, did not confirm that they had been subjected to unlawful treatment by members of the militia. At the same time, detention conditions at the holding facility of the internal affairs department of currently do not conform to requirements, including the requirements established by the European Committee for the Prevention of Torture. The holding facility in question is always overcrowded (on average, over 200 persons are held in a facility intended for 82 persons), and ventilation, lighting and other conditions do not fully meet the relevant requirements. The

Ministry of Internal Affairs has decided to build a new holding facility. Although resources have been allocated and cost estimates have been prepared, the construction of the facility has been hampered by insufficient funding. Thus, the allegations concerning the beating of Beslan Kutarba and Revaz Keshikashvili by members of the militia during their detention, and the allegation that they were forced to confess to undisclosed crimes, that they were subjected to pressure during questioning and that they did not receive medical assistance, was not corroborated.

Urgent appeals

1840. On 18 June 2004, the Special Rapporteur sent an urgent appeal, regarding **Oleg Alekseyev**, aged 24; **Igor Danilov**, aged 36; **Alexander Gerasimov**, aged 25; **Anatoly Plevo**, aged 33; **Nina Polskaya**, aged 18 (f); **Ilya Romanov**, aged 36; **Evgeny Semenov**, aged 31; **Alexander Smirnov**, aged 22; **Andrey Yakovenko**, aged 35 and **Bodgan Zinchenko**, aged 21. According to the allegations received, they were all arrested in December 2002 in Nikolaev and Odessa and accused of participation in a terrorist group created to overthrow the constitutional system by violent means. Following their arrests, they were taken to different locations, including the District Department for Internal Affairs of Leninsky district, and the Investigatory Isolation Ward of Nikolaev City, as well as the Investigatory Isolation Ward of Odessa, and the Departments of the Security Services of Odessa and Nikolaev regions. They were beaten and subjected to other forms of ill-treatment during the investigation and trial procedures. Some of them were initially denied medical assistance despite their injuries, which included fractured ribs. The case of the above-named individuals is presently before the Court of Appeal of Odessa. A sentence is expected to be announced on 2 July 2004. Seven of the accused have initiated a hunger-strike to protest against the use of testimonies obtained through torture, and they are said to be in poor condition.

1841. By letter dated 5 July 2004, the Government informed that the defendants were charged with intentional homicide, banditry, assault with intent to rob, attempted murder of law enforcement agents, illegal use of weapons, ammunition and explosives and other serious offences. All of the prisoners, with the exception of Nina Polskaya, are being held at Odessa Remand Centre No. 21. In accordance with the law on pre-trial detention, they are held in appropriate conditions and receive the necessary medical assistance. During their conversations, they did not complain about their health, the use of physical force, or conditions in the Odessa Remand Centre. Moreover, they were all examined by physicians from medical institutions of the Odessa oblast health administration and were found to be in generally good health. At the same time, some of them stated that certain internal affairs and security service agents had used physical force against them. In fact, when they were arrested on 13 December 2002, Oleg Alekseyev, Igor Danilov, Sergey Berdyugin and Nina Polskaya put up armed resistance, as a result of which two law enforcement agents received gunshot wounds. In this situation, hand-to-hand combat methods were legitimately used against them, which resulted in physical injuries. According to the records of the medical examination conducted on 14 December 2002, the physical injuries were minor. Earlier, their complaints concerning physical injuries were investigated in accordance with the provisions of article 97 of the Code of Criminal Procedure, by the procuratorial bodies of Nikolaev, Odessa and Kherson oblasts. The initiation of criminal proceedings against members of the militia and security service agents was denied on the grounds of lack of evidence that a crime had been committed. The Office of the Procurator-General of Ukraine sees no reason to overturn this

decision. In September and October 2003, Sergey Berdyugin complained of stomach pains to the medical staff of remand centre No. 21 and received outpatient treatment. On 10 October 2003, he was transferred to the prison's hospital Ward. When his health worsened, he was taken by ambulance on 15 October 2003 to the Odessa municipal hospital where, after undergoing two operations, he died on 1 November 2003. According to the findings of the forensic medical examination No. 409, which was conducted on 21 November 2003, Sergey Berdyugin died of a malignant tumor, with multiple metastases to the liver and diaphragm and areas of decay. There were no traces of physical injuries on the corpse. From 28 May 2004 to 16 June 2004, Alexander Gerasimov, Bogdan Zinchenko, Evgeny Semenov, Igor Danilov, Ilya Romanov, Alexander Smirnov and Andrey Yakovenko refused to eat, stating that they were fasting because the court permitted violations of their procedural right. At present, they are all eating and their health is satisfactory; they have not complained to the prison administration about detention conditions. The criminal case is currently before the Odessa oblast court of appeal. When the case comes to trial, the aforementioned questions will be considered.

1842. On 18 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to health, regarding **Beslan Kutarba**, aged 33, and **Revaz Kishikashvili**, aged 54. According to the allegations received, on 30 and 31 August 2004, Beslan Kutarba and Revaz Kishikashvili were detained, respectively, by police officers from the Nakhimovsky police station in Sevastopol on suspicion of petty theft and breaking and entering. They were beaten in custody, and confessed. It is alleged that police are forcing them to confess to a number of unsolved crimes. They are currently in the temporary detention facility in Sevastopol. The two men are in very poor health. Beslan Kutarba, who has Hepatitis C, had bruising and swellings and fresh injection marks on his arm, according to his lawyer's last visit. It is alleged that because he is a drug user, the investigators may be using access to drugs as a way to exert pressure on him during interrogations. Revaz Kishikashvili's lawyer reported that his client showed signs of having been beaten, and contracted a skin disease while in detention. He suffers the effects of a previous head injury, as well as a chronic kidney complaint. No medical examinations have been carried out on either of the men, and neither has received any medical treatment. Their lawyers and families have had limited access to them.

1843. By letter dated 18 November 2004, the Government informed that on 30 August 2004, the investigative department of the Nakhimov district unit of the Internal Affairs Department of the Ministry of Internal Affairs in Sevastopol instituted criminal proceedings in relation to thefts. After their arrest, they were held at the Nakhimov district unit, in the temporary holding facility of the internal affairs department; they were repeatedly taken from the facility in connection with the investigation being conducted in Sevastopol and the Autonomous Republic of Crimea. As at 3 November 2004, they are still held there. When they were placed in the facility, Beslan Kutarba and Revaz Keshikashvili underwent medical examinations, at which time they made an entry, in their own handwriting, in the relevant register that they had no complaints about their health. On 12 October 2004, during a routine medical examination, the staff of the holding facility discovered minor wounds on Beslan Kutarba's face. When he was questioned, he explained that he had injured himself during a fall as a result of his own carelessness, and that he had no grievances against his cell mates or the militia. At the same time, an investigation revealed that, during a fight, a fellow prisoner inflicted slight bodily injuries in the form of scratches and bruises on Beslan Kutarba, without

impairing his health. On these grounds, a decision was taken to deny the institution of criminal proceedings for lack of evidence that a crime has been committed. In order to prevent the recurrence of such incidents, Beslan Kutarba was transferred to another cell and was given the necessary medical treatment. Revaz Keshikashvili also requested medical assistance: during his detention at the holding facility, from 13 to 16 and 19 October 2004, members of the militia repeatedly called in an emergency medical team, at his request. After examining Revaz Keshikashvili, the doctors made the diagnosis: "intercostal neuralgia (osteochondrosis); no hospitalization required". During the investigation, the members of the militia who were involved in the arrest, preliminary investigation, criminal prosecution and detention of the aforementioned persons were questioned. They all categorically denied any unlawful treatment of the aforementioned accused persons. Beslan Kutarba and Revaz Keshikashvili, who were also questioned during the investigation, did not confirm that they had been subjected to unlawful treatment by members of the militia. At the same time, detention conditions at the holding facility of the internal affairs department of currently do not conform to requirements, including the requirements established by the European Committee for the Prevention of Torture. The holding facility in question is always overcrowded (on average, over 200 persons are held in a facility intended for 82 persons), and ventilation, lighting and other conditions do not fully meet the relevant requirements. The Ministry of Internal Affairs has decided to build a new holding facility. Although resources have been allocated and cost estimates have been prepared, the construction of the facility has been hampered by insufficient funding. Thus, the allegations concerning the beating of Beslan Kutarba and Revaz Keshikashvili by members of the militia during their detention, and the allegation that they were forced to confess to undisclosed crimes, that they were subjected to pressure during questioning and that they did not receive medical assistance, was not corroborated.

United Arab Emirates

Urgent appeals

1844. On 15 November 2004, the Special Rapporteur sent an urgent appeal, concerning **Abdelaziz Khalid Osman**, a 60 year-old Sudanese national. According to the allegations received, he is at risk of imminent forcible return to Sudan. On 23 September, he was arrested by the authorities at the Abu Dhabi airport on his arrival from Cairo, Egypt, and is in detention in an Abu Dhabi prison. The authorities are said to be considering a request from Sudan for his extradition. Although he has had access to a lawyer, he reportedly has not been given the opportunity to challenge his continuing detention, or any decision on his forcible return to Sudan, before a court. He is said to suffer from recurring back pain and high blood pressure. Abdelaziz Khalid Osman, a political opponent of the Sudanese government, is the chairman of the Sudan National Alliance/Sudan Alliance Forces (SNA/SAF), an armed political group in Eastern Sudan.

United Kingdom of Great Britain and Northern Ireland

1845. By letter dated 30 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning:

1846. **Walik Bashir Youssef al-Sa'di**, aged 19, al-Jaza'ir, Basra. On 9 April 2003 he was arrested near the al-Marbed Hotel, hooded, and taken by United Kingdom soldiers to the military holding centre at the Corniche, There he was beaten with the butt of a rifle on his back, side and nose. He sustained bruising and a broken nose. He was transferred the next day to the al-Rumaila base. A Kuwaiti interpreter threatened him with electric shocks and further beatings if he did not confess to being a member of the Fedayeen or Ba'ath Party. He was taken to a field hospital for his earlier injuries and given painkillers. He was later transferred to Camp Bucca.

1847. **Shakir Qassim al-Sai'd**, a 30-year-old taxi driver from Basra. On 10 April 2003, he was arrested by United Kingdom soldiers. He was hit on the mouth, resulting in a broken tooth. As he lay on the ground he was kicked and beaten with rifles by five soldiers for 10 minutes. He was taken to the South Club in al-Tahsiniya, al-Saymar. He was hooded and kicked throughout the night. He was beaten when he requested water. The next day he was examined by United Kingdom military doctors and remained at the military hospital for four days before being moved to Um Qasr. He was released shortly thereafter.

1848. By letter dated 30 November 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations concerning:

1849. **A. J. K.**, aged 16, and **Iyyad Salem Hannoun**. On 8 May 2003, they were arrested together with two other persons by five United Kingdom soldiers in Sa'ad Square, Basra, and taken to al-Jumhuri hospital. For one hour they were kicked and punched by the soldiers, after which they were taken to the Zubair bridge. They were stripped to their underwear and ordered at gunpoint to swim across the river. While two of them managed to cross the river and flee, A. J. K. and Iyyad Salem Hannoun struggled because they could not swim. A. J. K. drowned and Iyyad Salem Hannoun swam back. A. J. K.'s brother lodged a complaint at a police station on 9 May, where he was reportedly told by United Kingdom officials that they did not believe him. His father took A. J. K.'s body to the station the following day after it had been recovered from the river. An autopsy was reportedly carried out in late June 2003.

1850. **Baha Dawood Salem al-Maliki**, aged 26; **Kifah Taha Moussa**, aged 45; **Baha Shehab**, aged 45; **Dhaher 'Abdallah 'Ali**, aged 60; **Mohand Dhaher 'Ali**, aged 18; **Jawad Kadhem**, aged 35; **Radeef Taha Muslim**, aged 29, and **Sattar**, all employees of the Ibn al-Haythem Hotel, Basra. On 14 September 2003, they were arrested by members of the Queen's Lancanshire Regiment, who were searching for weapons in the hotel. Baha Dawood Salem was kicked and punched several times. The hotel staff were forced to sit on the floor of the ground floor bathroom and were kicked by soldiers. Jawad Kadhem was forced to sit on a Turkish toilet while a soldier flushed it on him. They were taken away to Camp Steven in al-Hakimya. At the camp they were forced to stand with their backs against a wall, arms outstretched and feet away from the wall. They were kicked about their bodies, including on the abdomen and chest. After several hours the men were allowed to sit down against the wall with their arms outstretched. They were kicked whenever their arms dropped. Water was poured over Kifah Taha Moussa when he fainted. One soldier forced him to smell a cotton ball soaked with petrol while he held a lit lighter in the other hand. The hotel staff were given names of football players and were threatened with beatings if they did not remember the names. Jawad Kadhem was forced to lie on the ground with soldiers sitting on his back. Later

another soldier forced them to dance. About two days later, they were transferred to Camp Bucca. Kifah Taha Moussa was taken first to the camp medical centre and then by helicopter to the military hospital in al-Shu'aiba prison near Zubair for further treatment. He was kept there until 19 November and released without charge. A medical report from the military hospital, dated 17 September 2003, stated that he was suffering from kidney failure, and appeared to have been assaulted as there was bruising to his abdomen, chest, left forearm and left thigh. Radeef Taha Muslim received treatment there for his injuries and remained there for one week. Mohand Dhaher 'Ali, Sattar and Baha Shehab were released on 31 October 2003. Jawad Kadhem was released in November 2003. Baha Dawood Salem died in custody on 17 September. When his father went to the military hospital in al-Shu'aiba, he observed that Baha Dawood Salem's nose was broken and the skin on his forehead was torn away. Bruising was visible on his chest, abdomen and legs. The death certificate of 21 September indicated that the cause of death was cardiopulmonary arrest and asphyxia. Compensation for $3,000, was reportedly accepted by the family, however a further $5,000 payment without an admission of guilt was declined. No further information on investigations into the treatment of the above-mentioned persons is available.

1851. **'Abd al-Jabbar Moussa 'Ali**, aged 53, and his son **Bashar**, al-Jumhuriya, Basra. On 13 May 2003, they were kicked and beaten by United Kingdom soldiers stationed at the al-Jubaila base, who searched their home for weapons. They were blindfolded and taken to the base, where plastic sacks were put over their heads and they were repeatedly punched and kicked. Bashar was taken to a military base in al-Hakmiya and transferred the next day to Um Qasr. On 14 and 15 May, officials at the base denied any knowledge when a relative went there enquiring about the whereabouts of the two men. On 16 May, the third attempt to obtain information, the family was informed that 'Abd al-Jabbar Moussa 'Ali had died hours after his arrest. The death certificate issued by the Teaching Hospital indicated that the death was caused by a "sudden stopping of the heart", but it was reported that injuries were visible on the arms, legs and chest. Bashar was released a few days later. An investigation was reportedly discontinued after the family denied a request for an autopsy on religious grounds.

Urgent appeals

1852. On 11 June 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 right to freedom of opinion and expression, and the Special Rapporteur on violence against women, regarding **Nilu Kirat**, a 24-year-old Nepalese citizen from Khotang District. According to the allegations received, she is at risk of immediate deportation from the United Kingdom to Nepal, where she would be at risk of detention, torture and other forms of ill-treatment, on grounds of her political opinion and activities as a human rights defender, and particularly because of her involvement with the Maoists. She has been subjected to death threats in Nepal, and was the victim of ill-treatment, including sexual assault by Nepalese police. She is detained at Heathrow Airport.

1853. By letter dated 16 July 2004, the Government informed 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 Nilu Kirat on 8 June 2004 was not arbitrary and was made in the belief that she would be removed on 9 June 2004. These arrangements were cancelled following representations to the Special Rapporteurs and submission of a further

application to remain in the United Kingdom. Once it became clear there was no immediate prospect of removing Nilu Kirat she was released from detention on 17 June. The Government has carefully considered Nilu Kirat's case in the light of its domestic and international obligations, including the United Nations Convention relating to the Status of Refugees and the Convention for the Protection of Human Rights and Fundamental Freedoms, but it has 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 Nilu Kirat has been subjected 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 ajudicator 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 of 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, Nilu Kirat has made full use of the avenues available to challenge this decision, and has had legal representation throughout. The independent Immigration 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 which found any reason to re-open 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.

1854. On 2 August 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, concerning **E. D.**, a 45-year-old Algerian national. According to the allegations received, he is at risk of imminent forcible return to Algeria, following the rejection of his application for asylum in the United Kingdom. E. D., living in the United Kingdom since 1998, was a former member of the banned Islamic Salvation Front. He is a political opposition activist, as well as a member of the human rights organizations Algerian League for the Defence of Human Rights, Algeria Watch, Collective of Families of Missing Persons in Algeria, as well as a contributor to the website *InvestigAction.com*. Prior to his departure from Algeria, he was arrested for his involvement in student protests in 1978, 1988 and in May 1991, for which he was ill-treated in detention. Eighteen members and friends of his family were victims of a massacre in 1997.

1855. By letter dated 14 September 2004, the Government informed that it has in place well-established procedures for the assessment of applications involving asylum and human rights issues. The Immigration and Nationality Directorate (IND) refused E. D.'s application for asylum on 12 June 2001 and an independent adjudicator dismissed his subsequent appeal on 3 May 2002. On 7 August 2003 his appeal was remitted to be heard afresh by another independent adjudicator, which was subsequently dismissed on 10 November 2003. He was refused permission to appeal this decision to the Immigration Appeal Tribunal on 22 April 2004, and then applied for Statutory Review. This application was dismissed on 15 June by the Court of Appeal. E. D. has now exhausted his appeal rights and has no legal basis of stay in the United Kingdom. His case has been carefully considered in the light of the domestic and international obligations of the United Kingdom, including the Convention relating to the Status of Refugees and the Convention for the Protection of Human Rights and Fundamental

Freedoms. It has been concluded that he does not face persecution or a real risk of detention, torture or inhuman and degrading treatment or other forms of mistreatment on account of any past history if he were to be returned. There is not sufficiently compelling or compassionate reasons for IND to reverse the decision to refuse E. D. asylum or to let him remain in the United Kingdom exceptionally.

Observations

1856. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee against Torture (CAT/C/CR/33/3, para. 4), in particular: the interpretation that the inadmissibility of evidence gained by torture only applies to situations where the State party's officials were complicit; the text of section 134(4) of the Criminal Justice Act, which provides for a defence of "lawful authority, justification or excuse" to a charge of official intentional infliction of severe pain or suffering, a defence which is not restricted by the Human Rights Act for conduct outside the State party, and the text of section 134(5) of the Criminal Justice Act, which provides for a defence for conduct that is permitted under foreign law, even if unlawful under the State party's law; the limited acceptance of the applicability of the Convention to the actions of its forces abroad (i.e. United Kingdom forces in Afghanistan and Iraq); the reported use of diplomatic assurances in the "refoulement" context in circumstances where its minimum standards for such assurances, including effective post-return monitoring arrangements and appropriate due process guarantees followed, are not wholly clear and thus cannot be assessed for compatibility with article 3 of the Convention; and the resort to potentially indefinite detention under the Anti-terrorism, Crime and Security Act 2001 of foreign nationals suspected of involvement in international terrorism and the strict regime applied in Belmarsh prison.

United States of America

1857. By letter dated 2 July 2004, sent jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the right to health, the Special Rapporteur, mindful of the 28 June 2004 decision of the United States Supreme Court, which stated that United States courts have jurisdiction to consider challenges to the legality of the detention of persons incarcerated at the United States Naval Base in Guantánamo Bay, Cuba, and the announcement that the first military tribunal was formed on 29 June 2004, notified the Government that he had received allegations regarding **Feroz Ali Abbasi**, a United Kingdom national, aged 23; **Moazzam Begg**, a United Kingdom/Pakistani national, aged 35; **David Hicks**, an Australian national, aged 28; **Salim Ahmed Hamdan**, a Yemeni national, aged 34; **Ali Hamza Ahmed Sulayman al Bahlul**, a Yemeni national, and **Ibrahim Ahmed Mahmoud al Qosi**, a Sudanese national. According to the allegations received, it was announced on 3 July 2003 that the six men were made subject to the Military Order on the Detention, Treatment and Trial of Certain Non-Citizens in the War Against Terrorism, of 13 November 2001. They were subsequently transferred to Camp Echo, the part of the Naval Base in Guantánamo Bay where pre-commission detainees, or those designated to face a military commission, are held. Salim Ahmed Hamdan, in custody since November 2001, was transferred there in early December 2003, while Feroz Abbasi and Moazzam Begg are believed to have been held there longer. Ali Hamza Ahmed Sulayman al Bahlul, Ibrahim Ahmed Mahmoud al Qosi and David Hicks, have been charged with conspiracy to commit war crimes. No dates for their trials have been set, but David Hicks may face a military

commission in August. At Camp Echo each detainee is held in solitary confinement for up to 24 hours per day in a windowless air-conditioned cell. The cells are approximately 3m by 3m by 5m, divided into living quarters with a bed and small toilet, and a section for a small table. One psychiatrist, who visited Guantánamo Bay in 2003 at the invitation of the Department of Defense, stated that the solitary confinement places the detainees at significant risk for future psychiatric deterioration, possibly including the development of irreversible psychiatric symptoms. The International Committee of the Red Cross has stated that it has observed a worrying deterioration in the psychological health of a large number of detainees. Moreover, the isolation and conditions of confinement may ultimately make these prisoners susceptible to mental coercion and false confessions. Therefore there are concerns that guilty pleas or incriminating testimony could result from the conditions in which the detainees are held. According to the psychiatrist's declaration which was filed in federal court, Salim Ahmed Hamdan has said that he has considered confessing falsely to ameliorate his situation. There is concern that the military commissions, whose sentences cannot be appealed in any other court and include the death penalty (i.e. sections 7 and 4 of the Military Order, 2001, respectively), will allow for the admission of such evidence without regard to international standards of due process. According to the released memorandum from the Department of Justice to the Department of Defense dated 26 February 2002, incriminating statements may be admitted in proceedings before military commissions even if the interrogating officers do not abide by the *Miranda* warnings [the US Supreme Court decision concerning the rights of suspects].

1858. By letter dated 30 November 2004, the Special Rapporteur notified the Government that he had received allegations concerning **execution by lethal injection in North Carolina**. According to the state statute (NCGS 15-187 and 15-188) the sentence of lethal injection requires the use of two drugs, an ultrashort-acting barbiturate (i.e. a sedative to render the person unconscious) and a chemical paralytic agent (i.e. paralyzes the voluntary muscles). The North Carolina Department of Corrections reportedly uses sodium pentobarbital as the sedative, and pancuronium bromide as the paralytic agent. The use of pancuronium bromide, which paralyzes all voluntary muscles, does not affect sensation, consciousness, cognition or the ability to feel pain and suffocation. A third drug, potassium chloride—not authorized under the statute—which causes the heart to stop, is also used, reportedly to expedite death. While the normally high doses of sodium pentobarbital that is administered to a person renders very small the chances of consciousness, toxicology reports indicate a great variation in the post-mortem barbiturate levels in persons following executions in North Carolina; a 140-fold variation in doses, from 2.6mg/L (i.e. October 1999 execution of Arthur Boyd) to only "trace" levels (i.e. December 2002 execution of Desmond Carter). The executions of William Jones, Henry Hunt, Joseph Bates, Edward Hartman, John Daniels, Joseph Keel, and Raymond Rowsey, occurring in 2003 and 2004, do not report the post-mortem levels of the sedative. If the sedative is not properly administered in a dose sufficient to cause death or at least the loss of consciousness for the duration of the execution procedure, the use of the pancuronium bromide places the person at risk for consciously experiencing paralysis, suffocation and the pain of the injection of potassium chloride; it essentially masks the suffering of the person during the execution and gives the appearance of tranquillity. Therefore it is reported that this drug has no effect on the efficacy of the lethal injection nor does it render the execution more humane. Moreover, it is alleged that in North Carolina the drugs are administered successively without delay (i.e. without a saline flush between the administration of each drug), which may cause the sodium pentothal to crystallize upon contact with the pancuronium bromide, and result in extreme pain during the procedure.

Urgent appeals

1859. On 12 March 2004, the Special Rapporteur sent an urgent appeal concerning **Qutaiba Taha 'Abd al-Hamid Hamdani**, a 24-year-old graduate of Basra University who works in an information technology office; **'Uday Nasser Badr**, aged 28; **Yasser Hamad**, a 30-year-old teacher at the Grand Mosque, and **Firas 'Imad**. According to the allegations received, Qutaiba Taha 'Abd al-Hamid Hamdani was arrested with his colleague 'Uday Nasser Badr by members of the "Intelligence Directorate" on 22 February 2004 in Hay al-Risala. Yasser Hamad was arrested at his home in the al-Mishraq district on 25 February. Firas 'Imad was arrested at his home in Hay al-Risala on the same day. The four men are held in incommunicado detention at the "Intelligence Directorate" in Basra; Basra being currently under the control of the United Kingdom military. The "Intelligence Directorate" was formed a few months ago by the Badr organization, the armed wing of the political group, the Supreme Council for the Islamic Revolution in Iraq. Several people are said to have been held incommunicado and tortured at the directorate's headquarters in Basra. The methods of torture reportedly include lashing on various parts of the body, specifically on the back with an iron stick inserted inside a plastic pipe.

1860. On 27 May 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding about **22 ethnic Uighurs of Chinese nationality**. According to the allegations received, they are held at Camp 4 at the military base in Guantánamo Bay, and are at risk of imminent forcible return to China. The detainees were allegedly captured in the context of the armed conflict in Afghanistan and transferred to United States custody around January 2002. A delegation from the Government of China visited Guantánamo Bay in September 2002 and participated in interrogations of the ethnic-Uighur detainees. The detainees were subjected to intimidation and threats, and to "stress and duress" techniques such as environmental manipulation, forced sitting for many hours, and sleep deprivation, some of which were carried out on the instruction of the Chinese delegation.

Follow-up to previously transmitted communications

1861. By letter dated 3 March 2004, the Government provided information concerning:

1862. **Khaled Ben Mustafa**, **Nizar Sassi**, **Ridouane Khalid**, and **Mourad Benchellali** (E/CN.4/2004/56/Add.1, para. 1819). The Government informed that operational and security concerns prevent the confirmation of the identity of individuals detatained at the Naval Base in Guantánamo Bay, except to their governments of nationality and the International Committee of the Red Cross. The Government has made clear that it does not permit, tolerate or condone torture by its employees under any circumstances. Torture is forbidden under the customary law of war and by the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, as ratified by the United States in 1994. It is also prohibited by the federal anti-torture statute (Title 18, Part I, Chapter 113C of the United States Code). Misconduct by members of the United States Armed Forces is punishable under the Uniform Code of Military Justice, as well as other federal statutes. United States policy is to treat the detainees at Guantánamo Bay in a manner consistent with article 16 of the Convention. Article 16 provides, "Each State Party shall undertake to

prevent ... other acts of cruel, inhuman, or degrading treatment or, punishment which do not amount to torture." Because the terms in article 16 are not defined, the United States ratified the Convention with a reservation to this provision. This reservation supplies an important definition for the term "cruel, inhuman, or degrading treatment or punishment." Specifically, this reservation provides that "the United States considers itself bound by the obligation under article 16 to prevent cruel, inhuman or degrading treatment or punishment, only in so far as the term cruel, inhuman or degrading treatment or punishment, means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States." Although the Government cannot comment on specific cases or practices, credible allegations of illegal conduct by United States personnel will be investigated and, as appropriate, reported to proper authorities. Should any investigation indicate that illegal conduct has occurred, the appropriate authorities would have a duty to take action to ensure that any individuals responsible are held accountable in accordance with the law. United States military personnel are well trained, disciplined, and informed on the laws and customs of war. United States forces undergo extensive training and education not only prior to any military operation, but also during and after military operations. United States military personnel have a duty and commitment to prevent violations of the law of war. Department of Defense Directive 5100.77 requires that all possible, suspected, or alleged violations of the law of war committed by United States persons be promptly reported, thoroughly investigated, and, when appropriate, remedied by corrective action. Instances of misconduct are rare among United States military personnel taking part in military operations. United States forces are subject to the Uniform Code of Military Justice, which contains penalties for many military offenses. These penalties are more severe if the offenses are committed during an armed conflict. The United States is acting well within its rights under the customary law of war in detaining enemy combatants for the duration of hostilities, without trial or access to lawyers. The war with Al-Qaida and its affiliates continues, as demonstrated by their continuing attacks around the world. Thousands have been killed in these attacks thus far. The Security Council recognized the right of self-defence to respond to the attacks of 11 September 2001, as did members of the North Atlantic Treaty Organization, the Inter-American Treaty of Reciprocal Assistance (Rio Treaty) and the Security Treaty between Australia, New Zealand and the United States of America (ANZUS), all of which invoked treaty clauses regarding collective self-defence following those attacks. The right of the United States to use armed force in self-defence inevitably includes the legal authority to capture and detain as enemy combatants those terrorists who take up arms against us during ongoing hostilities and those acting in support of enemy forces engaged in continuing armed attacks. The United States has treated, and will continue to treat, enemy combatants humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Geneva Convention relative to the Treatment of Prisoners of War. There is also the need for security precautions by military personnel transporting and guarding the detainees in light of the serious threat of physical harm involved. The United States affirms its commitment to the elimination of torture worldwide.

1863. **Approximately 100 detainees of different nationalities** (ibid., para. 1821). The Government informed that it has accelerated the release and transfer of some detainees from Guantánamo Bay to their countries of nationality and anticipates more releases and transfers in the near future. To date, approximately 90 detainees have been returned to their countries of nationality. The United States does not expel, return, or extradite individuals to countries

where it believes it is more likely than not that they will be tortured or subjected to persecution. The United States seeks specific assurances from the Government concerned, particularly of humane treatment, before transfer of a detainee from Guantánamo Bay and would take steps to investigate credible allegations of torture and take appropriate action if there were reason to believe that, those assurances were not being honoured.

1864. By letter dated 8 April 2004, the Government provided information concerning the high rate of **inmate on inmate sexual abuse in prisons** (E/CN.4/2002/76/Add.1, para. 1709). The Government informed that the Special Litigation Section of the Department of Justice protects the constitutional and federal statutory rights of persons confined in certain institutions owned or operated by State and local governments. These institutions include nursing homes, juvenile correctional facilities, adult prisons, jails and facilities for individuals who are mentally ill or developmentally disabled,. The governing statute, the Civil Rights of Institutionalized Persons Act (CRIPA) empowers the Department of Justice to investigate institutional conditions and, among other matters, to enforce Title III of the Civil Rights Act of 1964, which prohibits discrimination in public facilities on the basis of race, religion, or national origin. Staff at the Special Litigation Section is involved in a broad array of activities to vindicate the federal rights of detained and institutionalized persons. The Section investigates and brings civil actions to eliminate patterns or practices of law enforcement misconduct. The Section is currently investigating complaints against law enforcement offices and has filed civil suits resulting in court-enforceable agreements to eliminate systemic misconduct with several law enforcement agencies. The Section has been successful in resolving the vast majority of CRIPA investigations that have uncovered unlawful conditions by obtaining voluntary correction or a settlement designed to improve conditions and the provision of services. In the past several years, for example, the United States has entered into consent decrees to obtain remedies for deficient conditions at numerous prisons and local jails around the country, including a Montana State men's prison; facilities in the Territory of Guam and the Commonwealth of the Northern Mariana Islands; and jails in Maricopa County and Gila County, Arizona, and Clay County and Dooly County, Georgia. Of particular interest, in March 1998 the United States entered into a comprehensive settlement agreement with the State of Georgia to resolve the UnitedStates investigation of unlawful conditions of confinement at 31 juvenile correctional facilities in the State. The settlement required the State to develop and implement remedial plans in numerous areas, including protection from harm and provision of medical care and mental health care. In December 1997, the United States similarly entered into a consent decree with the Commonwealth of Puerto Rico to resolve the United States lawsuit challenging conditions of confinement in 20 juvenile facilities in Puerto Rico. The Civil Rights Division of the Department of Justice has launched more than 250 investigations into State and local government institutions since the enactment of CRIPA in 1980. As several of the cases raised by the Special Rapporteur involve allegations of prison rape, it is relevant to note that on 20 February 2003, the President signed an appropriations bill into law, committing $13 million for implementation of prison rape prevention and prosecution programmes including: a statistical review and analysis of the incidence and effects of prison rape; the establishment of a national clearing house for provision of information and assistance for federal, State, and local officials; grants to States, units of local government, prisons, and prison systems for prison rape prevention and prosecution efforts; and the development of national standards for enhancing the detection, prevention, reduction, and punishment of prison rape (Consolidated Appropriations Resolution, 2003). In addition, on 4 September 2003, President George W. Bush signed into

law S. 1435, the Prison Rape Elimination Act of 2003. In furtherance of the principles set forth in the Consolidated Appropriations Resolution, the Prison Rape Elimination Act provides for analysis of the incidence and effects of prison rape in federal, State and local institutions, and for information, resources, recommendations and funding to protect individuals from prison rape. A National Prison Rape Reduction Commission was also established pursuant to the Act, the purpose of which is to carry out a comprehensive legal and factual study of the penalogical, physical, mental, medical, social and economic impacts of prison rape, and to offer recommendations for enhancing detection, prevention, reduction and punishment of prison rape. The Government informed that in many of the cases, remedies have been provided through judicial or other recourse, including substantial monetary compensation in several cases. In this regard, United States law provides various avenues for individuals seeking redress, including inter alia filing criminal charges; which can lead to investigation and possible prosecution of the offender; bringing a civil action in federal or State court under the federal civil rights statute, directly against State or local officials for money damages or injunctive relief; seeking damages from the Government of the United States for negligence of federal officials under the Federal Tort Claims Act; suing federal officials directly for "constitutional torts" under a Bivens action (*Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971)); and pursuing administrative remedies, including proceedings before civilian complaint review boards, to review alleged police misconduct. The Government provided information concerning:

1865. **Robin Lucas** (ibid., para. 1711). The Government informed that she alleges that she was subjected to "a pattern of serious sexual assaults, sexual harassment and unwelcome sexual advances orchestrated and facilitated by prison officials" in August and September 1995. This matter was thoroughly investigated by the Criminal Section of the Department of Justice and the criminal case was closed due to the absence of a finding of sufficient credible information to establish a prosecutable violation of federal law. On 13 August 1996, Robin Lucas and two other female inmates of the Federal Detention Centre in Pleasanton, California, filed suit against the United States Department of Justice Bureau of Prisons. Pursuant to the settlement agreement reached in February 1998, the Bureau of Prisons committed to a number of national and local reforms. These reforms include, among others, the establishment of a confidential mechanism for inmates to report sexual assaults, the discontinuation of housing women in the men's facility where Lucas was housed, and the establishment of a national training programme to prevent the sexual assault of female prisoners. In addition, the plaintiffs received $500,000 in damages.

1866. **Rodney Hulin, Jr.** (ibid., para. 1712). The Government informed that the alleged rapists were fellow prison inmates, and there is no allegation of criminal involvement by any prison official in either the alleged rapes or Rodney Hulin Jr.'s suicide. As such, this information does not disclose a prosecutable violation by public officials of federal criminal civil rights statutes, and the Department of Justice is unable to authorize an investigation.

1867. **Gary Adkins** (ibid., para. 1713). The Government informed that according to press reports, in October 1999 officers at the Wayne County Jail in West Virginia are alleged to have shackled and beaten Gary Adkins and refused him medical assistance. The two officers accused resigned following a separate incident that involved allegations of physical, sexual and mental abuse of female inmates. A number of civil suits were filed against the officers, many of which were settled. Press reports indicate that Gary Adkins' lawsuit resulted in a

settlement for $75,000. There is an ongoing investigation by the Federal Bureau of Investigation into this matter.

1868. **Frederick Mason** (ibid., para. 1714). The Government informed that in August 2000, he filed a lawsuit against the Chicago Police Department and two officers, alleging that on 19 July 2000, he was sodomized and called racist and anti-gay names by the two officers. The Office of Professional Standards investigated this case. The Chicago Police Superintendent indicated that a medical examination on 20 July 2000, did not support Frederick Mason's allegations and that even the most basic facts do not support his allegations of physical abuse. His civil suit was settled in June 2002 for $20,000. The City of Chicago has denied all wrongdoing and stated that there was no evidence to support the removal of the officers from the police force. The City also claims the settlement was merely for nuisance value. According to press reports, on 6 September 2002, the two police officers involved counter-sued Frederick Mason for $20,000, claiming malicious prosecution. The Department of Justice Criminal Section closed its file in this matter after reviewing the Federal Bureau of Investigation investigation report and concluding that the matter lacked prosecutorial merit under federal criminal civil rights statutes.

1869. **Kentin Waits** (ibid., para. 1715). The Government informed that according to press reports, in July 2000 he argued with a Chicago police officer and shortly thereafter returned and squirted the officer with a water bottle. The following morning approximately seven officers arrested him at his home and held him at the police station for 22 hours, subjecting him to physical and anti-gay verbal abuse. In May 2001, Kentin Waits filed a lawsuit against the city, the chief of the office of Professional Standards, and certain unidentified officers. Press reports also indicated that in November 2002, after a jury trial, Waits was awarded $15,000 in compensatory damages and $2 million in punitive damages. Upon review, the judge reduced the jury's punitive award to $45,000.

1870. **Jeffrey Lyons** (ibid., para. 1716). The Government informed that in November 2000, according to press reports, Jeffrey Lyons was physically and verbally assaulted by a group of off-duty Chicago police officers. This matter was thoroughly investigated by the Department of Justice Criminal Section, and the criminal case was closed due to the absence of a finding of sufficient credible information to establish a prosecutable violation of federal law. In January 2001, Lyons filed a civil lawsuit against the city and three officers. The federal judge granted summary judgment in February 2003 on all counts for the City of Chicago, the on-duty police officers who subsequently arrived on the scene, and the owners of the bar outside of which the incident took place. The battery claim against the off-duty police officers was not dismissed, however, and a settlement between the parties was reached. Separate settlements were also entered into between Jeffrey Lyons and the City, and the bar owners, in order to avoid appeals on the matters. The City of Chicago agreed to pay him $24,000. The total settlement package is believed to be around $64,000.

1871. **Pine Hills School Youth Correctional Facility** (ibid., para. 1717). The Government informed that the allegations of indiscriminate use of pepper spray on Native American residents of Pine Hills were brought to the attention of the Montana Senate Judiciary Committee in 2002. A Bill to ban the use of pepper spray at such facilities, and proposed legislation SB 452 was fully debated. Pine Hill administrators participated in the debate and presented information on the progress they have made in running the facility. The

Special Litigation Section of the Department of Justice closed a preliminary investigation into this matter after corrective action was taken by the State of Montana.

1872. By letter dated 21 October 2004, the Government provided information concerning **anti-war protestors** (E/CN.4/2004/56/Add.1, para. 1812). The Government informed that several protestors were arrested at the scene of the demonstrations, but none were held overnight. The Alameda County District Attorney's office pursued misdemeanour charges (i.e. failure to disperse, interfering with a business and creating a public nuisance) against 25 of the arrested anti-war protesters. Some supporters of the defendants attended several public, pre-trial hearings, while others protested peacefully outside the courthouse. Charges were dropped against one defendant on 10 March 2004. At a pre-trial hearing on 22 April 2004, at the request of the Alameda County prosecutors, the judge dismissed all charges against the remaining 24 defendants. While continuing to deny any wrongdoing, the Oakland Police Department has adopted new crowd-control procedures, including new restrictions on the use of non-lethal munitions, and greater effort to coordinate with protest organizers before an event. Meanwhile, some of the protesters continue to seek redress for the alleged misconduct of the local police through a civil lawsuit in federal court. Lawyers for the protestors and the City of Oakland are engaged in settlement negotiations.

Observations

1873. The Special Rapporteur draws attention to a statement issued on 3 May 2004, concerning reports of torture and other cruel, inhuman or degrading treatment of Iraqi detainees by United States and United Kingdom forces serving under the Coalition Provisional Authority. He called upon all countries with forces serving in Iraq to take prompt and effective steps to investigate, prosecute and impose appropriate sanctions on any persons guilty of the alleged violations, as well as provide an effective remedy and adequate reparation for the victims of these abuses. In this connection, the Special Rapporteur also draws attention to requests for visits, made jointly with other Commission on Human Rights experts in January and June 2004, to places of detention of alleged terrorist suspects, including Afghanistan, Iraq and Guantánamo Bay Naval Base (E/CN.4/2005/62, para. 6).

Uzbekistan

1874. By letter dated 15 November 2004, the Special Rapporteur notified the Government that he had received allegations, concerning **Utkur Rakhimov**, aged 25, a student at the Chirchik Military Academy. On 6 March 2002, he was summoned to the Kebrai District Department of Internal Affairs (ROVD), and was detained when he arrived. From 6 to 13 March, police officers repeatedly beat him with batons in order to extract a confession for a murder. When he lost consciousness, water was poured over him to revive him. The senior investigator forged his signature on a confession. When Utkur Rakhimov was transferred to Tashkent Prison for pre-trial detention, the prison officials at first did not want to admit him due to his poor state of health, and no investigation was conducted into the ill-treatment. On 9 October 2003 he was sentenced to 17 years in prison by the Tashkent Military Court.

1875. By letter dated 23 December 2004, the Government informed that on 7 March 2002, he was arrested on suspicion of murder, questioned on the same day in the presence of a lawyer, and was placed in the holding facility of the Kibrai district internal affairs office, at

which time he had no physical injuries. On 9 March 2002, at 3:30am, officials of the holding facility drew up a report concerning the fact that Utkur Rakhimov fell out of his bed. Statements were also taken from Utkur Rakhimov's cellmates, who confirmed that he had fallen out of bed. The materials of the criminal case do not contain any information that Utkur Rakhimov requested medical assistance or that he made any allegations that he had been beaten. On 10 March 2002, Utkur Rakhimov was indicted under article 97 of the Criminal Code and questioned in the presence of a lawyer. On the same day, the preventive measure of remand in custody was chosen for Utkur Rakhimov, and he was escorted to Remand Centre No. 1 of the Ministry of Internal Affairs. The materials of the criminal case do not contain any information concerning the refusal to admit Utkur Rakhimov to Remand Centre No. 1 owing to his poor health. During the pre-trial investigation and the trial, the witnesses stated that Utkur Rakhimov had testified voluntarily and that the persons conducting the pre-trial investigation had not used any unlawful methods against him. This evidence has been confirmed by the investigator and the commander of the military unit, who were questioned as witnesses during the trial. Complaints (i.e. that he had not been involved in the criminal case and that he had been beaten by employees of the Kibrai district internal affairs office) sent by Utkur Rakhimov, and on his behalf, to the Office of the Procurator, to the Human Rights Commissioner (Ombudsman) of the Oliy Majlis (Parliament), Chairman of the Oliy Majlis, and to the editorial office of the newspaper *Narodnoe slovo*, were sent to the Military Court of Uzbekistan for verification during the consideration of the criminal case. The arguments contained in the complaints were verified during the trial but were not confirmed either in the pre trial investigation or during the trial. On 9 October 2003, the military court of Tashkent military district convicted him and sentenced him to 20 years' deprivation of liberty, but pursuant to the Amnesty Act of December 2002, the unserved portion of the sentence was reduced by one fifth. On 1 December 2003, the conviction was upheld on appeal. Pursuant to a protest by the first deputy chairman of the Supreme Court, the criminal case was considered by the Presidium of the Military Court of Uzbekistan and, by its decision of 28 July 2004, the court decisions were partially amended. The accusation against Utkur Rakhimov, that he was acting as part of a group, was dropped; the rest of the court decisions was upheld. At present, Utkur Rakhimov has the right to appeal the court decisions, in accordance with the supervisory procedure, to the Supreme Court of Uzbekistan.

1876. By letter dated 15 November 2004, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur notified the Government that he had received allegations, concerning **Kamalodin Jumaniazov**, aged 25, Karalpakstan. On 29 November 2003, he was arrested by police on suspicion of theft. On 7 December, his family went to the police station after hearing rumours of his death. At the station his family was directed to the morgue where they found his body. Kamalodin Jumaniazov apparently died 15 hours earlier. The Turkul district prosecutor's office told his relatives that he had committed suicide by hanging. Witnesses who viewed the body described injuries to the forehead, nape of the neck, and a grazed knee. On 8 December, two forensic experts orally confirmed that he suffered from head trauma, however the prosecutor's office prohibited his relatives from videotaping the experts or body. No investigation was conducted into his death.

1877. By letter dated 23 December 2004, the Government informed that on 29 November 2003, he was taken, on suspicion of storing narcotics, to the Turtkul district Internal Affairs Department. On 1 December 2003, a criminal case pursuant to article 276.2 (a) of the

Criminal Code, concerning drugs, was filed. As a result, he was placed in the district internal affairs department's temporary holding facility. On 7 December 2003, using his underwear, he made a noose, strung it to the back of a double-tier bed installed in the cell, and committed suicide by hanging himself. The same day the deceased's mother visited the facility to deliver food for him and learned of his death. Staff of the procurator's office was at that time examining the body. The district procurator's office made inquiries, the legality of the actions of all the district internal affairs department staff was verified, and it was established that the suicide had occurred as a consequence of dereliction of duty on the part of a militia officer, who was to ensure order in the holding facility cells. However, the use of torture or other unlawful methods was not confirmed. According to the findings of forensic medical report of 22 December 2003, death was caused by mechanical asphyxia from tightening of the noose around the neck. Cut wounds were discovered on the dorsal side of the wrist and the middle bend of the arm, evidencing Jumaniazov's repeated attempts to end his life. The officer was convicted by the Turtkul district criminal court on 24 April 2004, and the decision was upheld by the appellate chamber of the Supreme Court of the Republic of Karakalpakstan on 25 May 2004. The officer was sentenced to three years' deprivation of liberty and the judgement has entered into force. Under the applicable legislation, relatives of the deceased have the right to bring a civil court action for compensation in respect of damage caused to them as a result of the loss of a breadwinner. However, they did not do so during the court's consideration of the criminal case.

Urgent appeals

1878. On 19 December 2003, the Special Rapporteur sent an urgent appeal concerning **Evgeny Gugnin** (cited in previously transmitted communications, E/CN.4/2004/56/Add.1, paras. 1872, 1887), **Abror Isayev** and **Nodirbek Karimov** (cited in previously transmitted communications, ibid, paras. 1873, 1877, 1887), and **Iskander Khudoberganov** (cited in previously transmitted communications, E/CN.4/2003/68/Add.1, paras. 1929, 1930, and E/CN.4/2004/56/Add.1, paras. 1886). According to the allegations received, they are at risk of imminent execution following death sentences imposed on the basis of confessions extracted under torture.

1879. By letter dated 31 December 2003, the Government informed that in relation to the four above-mentioned individuals, who had received death sentences, measures have been taken by the Supreme Court, to stay the execution of the sentences pending the issuance of the United Nations Human Rights Committee's views in their cases.

1880. By letter dated 25 May 2004, the Government informed that by a ruling of the Presidium of the Supreme Court of 26 March 2004, the decision in respect of Evgeny Gugnin was changed and the death penalty imposed on him was commuted to 20 years' deprivation of liberty. By a ruling of 16 April 2004, the decisions in respect of Abror Isayev and Nodirbek Karimov were changed and the death penalty imposed on them was commuted to 20 years' deprivation of liberty.

1881. On 23 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on human rights defenders, regarding the non-governmental organization **Mothers against the Death Penalty and Torture**. According to

the allegations received, a conference on the death penalty organized in Tashkent by the NGO has been prevented from taking place. On 12 December 2003, the authorities indicated that the conference could not be held since it was organized by an unregistered organization. Representatives of the organization have been the subject of harassment in the past (e.g. see previously transmitted communications, E/CN.4/2004/56/Add.1, para. 1886, and E/CN.4/2004/62/Add.1, para. 813). They have received death threats after their participation in the annual meeting of the European Bank for Reconstruction and Development (EBRD) in May 2003. Members of the organization were told repeatedly by Secret Service officers that their organization was "blacklisted" and that the Secret Service was awaiting orders to close the organization down.

1882. By letter dated 6 January 2004, the Government informed that the unregistered non-governmental organization, “Mothers against the Death Penalty and Torture” has not filed an application for official registration of its statutes at the Ministry of Justice, in accordance with the Non-State Non-Profit Organizations Act, and the Voluntary Associations Act. This means that the organization is not legally registered in the country and any of its activities may be considered contrary to the national law. This organization was recently prohibited from holding a conference entitled, “Death penalty: Analysis, tendencies and realitites”, in Tashkent on 5 December 2003. The reason for the refusal was non-registration of the organization. The sponsors of the organization call it a human rights organization and yet are themselves incomprehensibly trying to ignore the provisions of the existing legislation.

1883. On 16 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Fatima Mukhadirova**, aged 62 (cited in previously transmitted communications, E/CN.4/2004/56/Add.1, para. 1900 and 1901). According to the allegations received, she was sentenced on 12 February 2004 in a closed court hearing to six years in prison with hard labor for possession of unsanctioned religious literature, membership in a prohibited religious organization, and "attempted encroachment on the constitutional order". It is believed that Fatima Mukhadirova, whose youngest son is in prison on similar charges, may have been arrested for having spoken out against the ongoing arrests of independent Muslims, and on the case of her eldest son, Muzafar Avazov, a religious prisoner who died from torture in prison in August 2002, during the mission of the Special Rapporteur on torture in Uzbekistan (see E/CN.4/2003/68/Add.2, para.52).

1884. By letters dated 28 November 2003, and 18 and 27 February 2004, the Government informed that on 24 February 2004 the sentence adopted by the Shayhantohur District Court on 12 February 2004 with regard to Fatima Mukhadirova was revised. On the basis of articles 57 and 60 of the Criminal Code the previous ruling of six years’ imprisonment was replaced with a fine, and she was released from imprisonment.

1885. On 26 February 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 right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, regarding **Muidinjon Kurbanov**, chairman of a regional branch of the Human Rights Society of Uzbekistan (HRSU) and of a coalition of human rights organizations, as well as chairman of the Jizzakh

province branch of Birlik (Unity), an opposition and pro-democracy political movement. According to the allegations received, on 5 January 2004, Muidinjon Kurbanov was taken to the provincial Department of Internal Affairs by officers from the Jizzakh Province Department for Anti-Terrorism and Narcotics, interrogated for several hours about his human rights and political activities and asked to reappear for further interrogation on the following day. On 16 February 2004, he was arrested on weapons and narcotics charges after police searched his property. Muidinjon Kurbanov was held incommunicado for three days, during which he was interrogated, threatened and forced to sign a confession dictated by the police. The police threatened that if he did not confess to the charges they would bring in his wife and take him to the basement where they would "show him" why he should confess. Muidinjon Kurbanov was denied access to his lawyer until 20 February 2004, after the latter filed a complaint with the procuracy. Muidinjon Kurbanov is currently in custody at the Jizzakh City Department of Internal Affairs. He had been arrested in 1998 on narcotics charges. On that occasion, he was threatened with charges of religious extremism, repeatedly beaten in custody, and sustained injuries to his kidney.

1886. By letter dated 22 April 2004 the Government informed that on 16 February 2004, on the basis of a decision approved by the procurator of Zarbdar district, Djizak oblast, a search was made in the home and adjacent premises of Muidinjon Kurbanov. In this connection, he was detained. On 19 February 2004, Muidinjon Kurbanov was charged with illegal possession of firearms, and narcotics charges. The preventive measure originally approved in respect of Muidinjon Kurbanov - confinement in custody - was changed on 27 February 2004 to signature of a pledge of good conduct. The accused’s interests during the investigation were represented by lawyers, with whose participation the basic investigative measures were carried out. The preliminary investigation into the case has ended and the case was referred on 1 March 2004 to the court for consideration of the merits.

1887. On 6 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, regarding reports of widespread arrests, allegedly targeting Muslims who practice their faith outside government religious institutions and their relatives, following the occurrence of violence in Tashkent in the past week. It is alleged that immediately after the first incidents of violence, which reportedly began on 29 March 2004, police initiated a campaign of "preventative" measures, targeting former religious prisoners and their relatives for detention and interrogation. Allegations were received concerning:

1888. **Dilshod Mamurov.** On 29 March 2004 at 10pm, he was taken from his home by police to the Sobir Rakhimov police department in Tashkent. The police denied that they were holding him, refused to say where he was taken, but revealed two days later that he was being held in the Tashkent City Police Department. They did not allow any visits. It is not clear whether he was charged with any offence. In 1999, Dilshod Mamurov received a three-year suspended sentence for membership in Hizb ut-Tahrir. He was tortured during his detention in 1999.

1889. By letter dated 27 May 2004, the Government informed that on 30 March 2004 he was detained by officers of the Sabir Rakhimov District Internal Affairs Authority of the City of Tashkent, and charged on 2 Apri12004 with infringement of the constitutional order, preparation or distribution of material containing threats to public security and public order,

and formation, leadership or membership of religious extremist, separatist, fundamentalist or other banned organizations. On the same day, with the procurator's authorization, detention in custody was chosen in his respect as a preventive measure. A decision will be taken on the basis of the findings of the preliminary examination into the criminal case.

1890. **Akiljon Ziahonov**, a former religious prisoner, who was accused of "Wahhabism". On 29 March, he was arrested and is being held incommunicado at the Tashkent City Department of Internal Affairs.

1891. By the same letter the Government informed that he was detained on 30 March 2004 by officers of the Tashkent Main Internal Affairs Authority in comection with the discovery of literature issued by the "Khizb-ut-Takhrir". A criminal case was opened on 1 April 2004, and he was charged with infringement of the constitutional order, and preparation or distribution of material containing threats to public security and public order. On 2 April 2004, with the procurator's authorization, detention in custody was chosen in his respect as a preventive measure. A preliminary investigation into this case is now being conducted and a decision concerning him will be taken on the basis of its fndings.

1892. **Bobur Makhmudov.** On the night of 30 March, he was arrested at his home by about nine plain clothes officers. The authorities refused to disclose his whereabouts.

1893. By the same letter the Government informed that on 30 March 2004, during an inspection made by officers of the Mirzo Ulugbek District Internal Affairs Authority of the City of Tashkent, he was found not to have identity documents and therefore, by a decision of the district deputy procurator of 31 March 2004, he was placed in the rehabilitation (reception and distribution) centre of the Tashkent Main Internal Affairs Authority to clarify his identity. After his identity was established, he was released on 8 April 2004. He was not held by the law enforcement bodies on suspicion of having committed terrorist acts in Tashkent, and no criminal case was opened against him in that connection. In an explanatory statement written in his own hand during a check carried out on 4 May 2004 by the competent bodies, he indicated that he was at home and has no complaints against the law enforcement bodies regarding his detention in the rehabilitation centre.

1894. 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 the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, concerning **Nilufar Khaidarova**, aged 26. According to the allegations received, on 5 April 2004 at 5:30am, she was 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 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 interrogated separately and then taken to the Tashkent City Department of Internal Affairs (GUVD). Her parents were released without charge the following evening. The GUVD has refused to acknowledge that Nilufar is in their custody or to provide any information on her whereabouts. Nilufar Khaidarova is detained without charge because her husband and her two brothers, all devout Muslims, are currently serving long prison sentences, convicted of anti-state activities and membership of banned religious organizations. Nilufar Khaidarova has not yet recovered from major surgery and chemotherapy.

1895. By letter dated 27 May 2004, the Government informed that on 7 April 2004 Nilufar Khaidarova 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 chosen for her 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 Nilufar Khaidarova will be taken on the basis of the findings of the preliminary investigation into the criminal case. Since her detention Nilufar Khaidarova has been allowed access to a lawyer, who visits her regularly. Moreover, her mother has already come to see her several times. With regard to her state of health, it should be pointed out that medical staff of the remand centre and the local Committee of the Red Crescent's representatives 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 Nilufar Khaidarova 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 Nilufar Khaidarova's relatives were informed of the arrest.

1896. On 7 May 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Ruslan Rakhimov**, **Albina Gailulina** and **Ekaterina Smernova**. According to the allegations received, they are currently on trial at the Iunnusobod District Court in Tashkent. Ruslan Rakhimov is charged with premeditated murder, and Albina Gailulina and Ekaterina Smernova are charged with conspiracy to conceal a crime. The decision is reportedly expected within a week. The court-appointed defense attorney initially assigned to defend Ruslan Rakhimov failed to report that he was tortured during his first days of detention at the Iunnusobod District police station (ROVD). The Iunnusobod District police officers put a gas mask over Albina Gailulina's head and closed off the air valve until she lost consciousness, in order to force her to sign an accusatory statement against Ruslan Rakhimov and a confession of concealing his alleged crime. Bruises were observed on her arms by a representative of her Neighborhood (Mahalla) Committee, caused by physical abuse in police custody. Ekaterina Smernova was physically abused to pressure her to sign an accusatory statement against Ruslan Rakhimov and a confession of her own guilt in concealing his alleged crime.

1897. By letter dated 27 June 2004 the Government informed that on 12 February 2004 Ruslan Rakhimov was charged with murder. After he was charged in the presence of his lawyer, he partially admitted that he was guilty of the charges against him. When remanded in custody on 3 February, he made no statement concerning the use of unlawful methods against him after he was arrested and during the investigation. As part of this case, Albina Gailulina and Ekaterina Smirnova were charged under article 241of the Criminal Code, concerning concealment of a serious or particularly serious offence. On 20 February 2004 they were required to sign a pledge of good conduct as a preventive measure. They partially acknowledged their guilt, explaining that they had learned about the offence committed by Ruslan Rakhimov from his own words, but had not informed the appropriate authorities of it. During the investigation they made no statements concerning the use of torture or other unlawful methods against them. During the hearing of the case in Yunus Abad district court in Tashkent, Ruslan Rakhimov and Albina Gailulina retracted the evidence they had provided during the preliminary investigation and stated that they had confessed as a result of the

application of physical and psychological pressure to them. In this connection, on 10 May 2004, on the application of the lawyer acting on behalf of Ruslan Rakhimov, the court ordered further investigation of the case. On 1 June 2004, the criminal division of the Tashkent City Court upheld the decision of the lower court on appeal. In order to establish the truth, the Procurator's Office and the investigative bodies have been invited to assemble all the evidence and eliminate the contradictions and shortcomings which have been identified, and to check the claims that unlawful methods of investigation were used against the persons in question. No final decision has yet been taken on this case.

1898. On 28 May 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the right to freedom of opinion and expression, regarding **Makhamadali Karabaev**, aged 57. According to the allegations received, on 5 May 2004, he was beaten by seven individuals of the Pop mayor's office, and later arrested by the Pop district police unit of Namangan region. Family members were warned by the police that if Makhamadali Karbaev continues his political activities and prepares for the next elections, his legs would be broken, and he would be beaten to death. His family have been denied access to him since his arrest, and that they continue to receive similar threats. Makhamadali Karabaev is reported to be the chairman of Birlik Party in Namangan region and a human rights campaigner.

1899. By letter dated 6 July 2004, the Government informed that on 22 January 2004, the president of the Citizen's Council of the town of Khalkabad, Pap district, Namangan, was assaulted by Makhamadali Karabaev. On 5 May 2004 he was arrested by the pre-trial investigation authorities of the Namangan oblast, informed in the presence of his lawyer of the warrant and charge against him, and remanded in custody as a preventive measure because he had evaded the pre-trial investigation. He was medically examined for physical injuries that he might have sustained during his arrest. No physical injuries were found. Makhamadali Karabaev did not lodge a complaint concerning the use of unlawful methods, including torture, in the conduct of the investigation. From 5 to 8 May 2004, Makhamadali Karabaev was kept in a cell of the Pap district holding facility together with other detainees. On 8 May 2004, he was placed in a common cell of remand centre No. 12 of the Central Penal Correction Department of Uzbekistan in Namangan. His conditions of detention comply with established norms. Makhamadali Karabaev was not placed in solitary confinement, either in the holding facility or in remand centre No. 12. In accordance with the provisions of articles 46 and 48 of the Code of Criminal Procedure, Makhamadali Karabaev has been informed of his rights as a suspect and an accused person, his right to a defence has been guaranteed, and conditions have been created for his exercise of all his procedural rights. At present, the case is under investigation. A decision concerning Makhamadali Karabaev will be taken on the basis of the investigation.

1900. On 8 June 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding **Azizbek Karimov**, aged 25. According to the allegations received, he is at imminent risk of execution on the basis of confessions extracted under torture. In February 2004, he was sentenced to death by the Supreme Court on a number of charges including "terrorism" and involvement in a religious extremist organization. Azizbek Karimov was beaten during his arrest in May 2003, and was taken unconscious from his home in the Uzbek town of Andizhan. The members of his family were not allowed to see him for over six months and there are allegations that he

was tortured and ill-treated while kept in the detention facilities of the National Service in Tashkent. During a court hearing someone stood up and poured acetic acid over him, causing Azizbek Karimov to be hospitalized. On 3 June 2004, the United Nations Human Rights Committee urged the authorities of Uzbekistan to stay his execution, following allegations that his arrest and sentencing violated key principles of international law.

1901. On 3 August 2004, the Special Rapporteur sent an urgent appeal, concerning **Yusuf Zhumayev**, aged 21, and **Ikram Mukhtarov**, aged 24. According to the allegations received, Yusuf Zhumayev was convicted of murder, and sentenced to death by the Sukhandarya Regional Court on 28 April 2003. In detention, in order to extract a confession, he was hung upside down and beaten, tortured with electric shocks, and forced to lie naked on a wet, cold concrete floor. He was also threatened that his parents and his sister, Mukhabbat, would be arrested if he did not confess. Yusuf Zhumayev testified during his trial that he had been tortured, but his allegations were not investigated. Ikram Mukhtarov was convicted of murder and sentenced to death on 24 May 2004 by the Tashkent City Court. His allegation that his confession was extracted under torture was ignored in court. The United Nations Human Rights Committee urged the Government on 19 July 2004 to stay these men's executions, while it establishes whether provisions of the International Covenant on Civil and Political Rights were violated in their cases.

1902. By letter dated 26 October 2004, the Government informed that the panel of judges on criminal cases of the Supreme Court has received an appeal concerning Ikram Mukhtarov and the result of its consideration will be revealed shortly. Concerning Yusuf Zhumayev, the Government informed that the sentence against him was carried out prior to receipt of the communication from the Human Rights Committee, requesting a temporary stay of execution pending completion of its consideration of the matter. Therefore the authorities did not violate rule 86 of the Committee's Rules of Procedure. The trial was conducted in compliance with the Code of Criminal Procedure. He was provided with counsel during the pre-trial investigation and the trial itself. Confessional statements were made by him in the presence of his lawyer. In addition, an inquiry found no confirmation of instances of the use of impermissible methods of investigation or torture by law enforcement officers. No declaration was made by him concerning torture or ill-treatment during the pre-trial investigation.

1903. On 23 August 2004, the Special Rapporteur sent an urgent appeal, concerning **Bahtier Muminov**. According to the allegations received, on 29 March 2004 at 10 p.m., he was arrested at his home in the Tashkent district by six members of NSS. Bahtier Muminov was interrogated and tortured by an NSS officer (whose name is known to the Special Rapporteur). He was then taken to the Ministry of Internal Affairs where he was again tortured and forced to sign some documents. Bahtier Muminov was later held in the basement of the Department of Internal Affairs (DIA) of the Tashkent district for a period of two months. During this time he was tortured by an inspector (whose name is known to the Special Rapporteur). His whereabouts were kept from his family for four months and he was denied access to his lawyer. On 12 August, his wife found out that he was being held at the SI-1 "Tashturma" detention centre and was granted permission to visit him the following day. She reportedly saw that his whole body was covered with bruises. One week before being able to see his wife and his lawyer, Bahtier Muminov was tortured with electrical shocks. Two DIA investigators (whose names are known to the Special Rapporteur) summoned Bahtier Muminov's wife to the DIA offices and forced her to write a note certifying that she

would not file a complaint regarding the ill-treatment to which her husband was being subjected.

1904. On 19 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding **Sodik Kodirov**, aged 30, and **Shukhrat Aripov**, aged 35. According to the allegations received, the two men are reported to be in imminent danger of execution, following convictions based on confessions obtained under torture. Sodik Kodirov was sentenced to death on charges including "premeditated, aggravated murder," on 7 December 2003 in Tashkent. His mother stated, "During the investigation my son wasn't only tortured, he was also raped... When I saw my son in detention on 10 June 2004, he didn't even recognize me. He was so badly beaten that he couldn't walk unaided...When I saw him he had cuts all over his body as a result of the torture...My son spoke about the torture in court but the judge simply ignored his words and said he was trying to escape responsibility." Shukhrat Aripov was sentenced to death for "premeditated, aggravated murder," on 6 January 2004 in Tashkent. He was severely beaten by police following his detention. His mother visited him in Tashkent prison on 14 October, and he told her that officials had visited him recently and said, "You will not live longer than 12 November. The stay of your execution requested by the United Nations runs out that day." On 12 May 2004, the United Nations Human Rights Committee had urged the Government to stay Sodik Kodirov's execution while it considered allegations that he had been tortured. A similar intervention on 18 May 2004 was made on behalf of Shukhrat Aripov.

1905. By letter dated 1 December 2004, the Government informed that the allegations of torture, rape, and intimidation of Sodik Kodirov are unsubstantiated.The documents of the criminal case proved that there has been no physical or mental pressure against him during the preliminary investigation and other criminal proceedings. These were held with the participation of his lawyer. During the Court hearings he did not complain of any ill-treatment. Concerning Shukhrat Aripov, the allegations are unsubstantiated.

1906. On 19 October 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Abdukadir Usupov**, a resident of Tashkent, aged 38. According to the allegations received, on 27 September 2004, he was arrested in Tashkent by NSS agents on suspicion of being a member of Hizb ut-Tahrir, and is detained at the National Security Trial Centre. He is charged with undermining the constitutional order of Uzbekistan, with composing and distributing materials that present a public threat, and with establishing, leading or participating in extremist religious, separatist or fundamentalist organizations. The lawyer for Abdukadir Usupov, who was recommended by the Initiative Group of Independent Human Rights Defenders of Uzbekistan, was denied access to him.

1907. By letter dated 9 December 2004, the Government informed that on 27 September 2004, he was detained by NSS officers on suspicion of undermining the constitutional order and establishing, leading, participating in religious, extremist, separatist fundamentalist and other prohibited organizations, contrary to the Criminal Code. On 30 September 2004, he was charged and was remanded in custody. He is kept in a general ward, together with other detainees. During the ongoing investigation, he has not been subjected to any physical or mental influence. During the medical tests on 28 September and 4 November, there were no

physical injuries or disorders seen on his body. He has had regular meetings with counsel, he has made a written statement to that effect. He and his counsel have made written statements in relation to the absence of any facts of torture or ill-treatment.

Follow-up to previously transmitted communications

1908. By letter dated 22 December, the Government provided information concerning:

1909. **Negmat Sharipov** (E/CN.4/2000/9, para. 1133, E/CN.4/2001/66, para. 1229). The Government informed that on 18 August 1999 Nemat Makhmudovich Sharipov was sentenced by the Tashkent oblast court, under articles 216 (unlawful organization of voluntary associations or religious organizations) and 242.1 (organization of a criminal association), to deprivation of liberty.

1910. **Nadira Khidoyatova** (E/CN.4/2002/76/Add.1, para. 1747, E/CN.4/2004/56/Add.1, para. 1913). The Government informed that during her detention in an NSS remand centre, Nodira Gogovna Khidoyatova told a medical assistant she was pregnant. She was therefore taken to an obstetrics and gynaecology unit, where she was placed under observation. As a result of the observation it was ascertained that she was indeed pregnant, but that the foetus was not developing. In view of the danger to her health, she was advised by the physicians to have an abortion, for which she gave her written consent.

1911. **Muidin Kurbanov** (E/CN.4/2001/66, para. 1241). The Government informed that he was convicted by the Tashkent City Court on 17 April 1999, together with two members of the Hizbut-Tahrir religious extremist organization. The allegations of his subjection to physical or psychological pressure do not correspond to the reality.

1912. **Abdulkhai** and **Murod Egamberdiyev** (E/CN.4/2000/9, para. 1125). The Government informed that on 7 December 2000, Abdulkhai Egamberdiyev was convicted by the Andizhan city court, under articles 159.4 (crime against the constitutional order), 242.1 (organization of a criminal association), 156.2 (incitement of ethnic, racial or religious hatred), 158.3 (attack on the President) and 59 (imposition of punishment during the commission of several offences) of the Criminal Code, and sentenced to 12 years' deprivation of liberty. On 7 February 2002 Murod Egamberdiyev was convicted by the Navoi City Court under article 221.1 (non-compliance with the lawful demands of the administration of an establishment during the enforcement of punishment) of the Criminal Code and sentenced to three years' deprivation of liberty. No physical or psychological pressure was exerted upon either man during the investigations.

1913. By letter dated 31 December 2003, the Government provided information concerning **Ilkhomzhon Karimov** (E/CN.4/2004/56/Add.1, paras. 1872). The Government informed that on 18 February 2003 the judgments relating to him were amended and the death penalty imposed on him was commuted to 20 years' deprivation of liberty.

Observations

1914. The Special Rapporteur draws attention to his press release of 13 September 2004, wherein he stated that he deeply regrets that he continues to receive information on the

execution of persons, whose death sentences were allegedly based on confessions extracted under torture in Uzbekistan. He stated that in a number of cases the Government disregarded requests of the United Nations Human Rights Committee to stay executions pending its consideration of the cases. Since the publication of the Special Rapporteur's report of his visit to Uzbekistan in 2002 (E/CN.4/2003/68/Add.2), at least nine death row prisoners were executed pending the Committee's consideration of the cases related to these persons, including **Azizbek Karimov** (para. 1899) and **Yusuf Zhumayev** (paras. 1900-1901). The Special Rapporteur appealed to the Government to ensure strict observance of the International Covenant on Civil and Political Rights, the Optional Protocol to the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, and to cooperate fully with the Special Procedures of the Commission on Human Rights. The Special Rapporteur drew attention to the recommendations contained in the report of his visit to Uzbekistan. In particular, that all competent government authorities give immediate attention and respond to interim measures ordered by the Committee and urgent appeals dispatched by the United Nations monitoring mechanisms; and that a moratorium be introduced on the death penalty, and that urgent and serious consideration be give to the abolition of capital punishment.

Venezuela

1915. Por carta de fecha 27 de mayo de 2004, el Relator Especial notificó al Gobierno que recibió información sobre los casos individuales siguientes según la cual la Guardia Nacional (GN) venezolana y la agencia de seguridad interna habrían hecho un uso excesivo de fuerza para controlar los enfrentamientos que habrían tenido lugar en el país durante los primeros meses de 2004, y en particular desde el 27 de febrero de 2004, cuando el Consejo Nacional Electoral (CNE) cuestionó la validez de más de un millón de firmas que la oposición habría recogido para obtener un referéndum para la dimisión del presidente Hugo Chávez. Las alegaciones de violaciones de derechos humanos se habrían producido durante la supuesta represión de manifestaciones organizadas por la oposición en Caracas y en las provincias. Al menos **nueve personas habrían muerto y más de 50 habrían sido heridas** en los enfrentamientos entre los manifestantes y las fuerzas de seguridad. En la capital, al menos **47 detenidos** habrían comparecido ante un juez y habrían sido puestos en detención preventiva por cargos como resistencia a la autoridad e instigación a delinquir. El 1 de marzo de 2004, la GN habría detenido a **23 estudiantes** y **dos profesores** que habrían participado a una marcha de protesta. Según las informaciones recibidas, uno de los profesores y cinco de los estudiantes habrían sido golpeados por efectivos de la GN. Los detenidos habrían sido liberados el 2 de marzo de 2004. El Relator Especial también ha sido informado de que varios periodistas habrían sido agredidos por las fuerzas de seguridad mientras cubrían dichas manifestaciones. En particular, ha recibido información sobre los casos individuales siguientes:

1916. **Víctor Serra**, periodista del diario *Cambio de Siglo*, habría sido golpeado el 12 de febrero de 2004 por un grupo de ocho policías, durante el desarrollo de una protesta de estudiantes que habría tenido lugar en la ciudad de Mérida. Ese día, los estudiantes se habrían manifestado para solicitar al CNE que diese respuesta positiva a la solicitud realizada por la oposición de referéndum revocatorio contra el Presidente Hugo Chávez.

1917. **Tito Díaz**, reportero del diario *Avance*, habría sido agredido por efectivos de la GN en la ciudad de San Antonio el 1 de marzo de 2004, cuando se habría acercado a un grupo de agentes de la GN que estaban golpeando a un hombre para tomar fotografías del incidente. Los agentes habrían intentado arrebatarle la cámara, le habrían propinado un golpe con la culata de un arma de fuego y lo habrían despojado de un radiocomunicador. Seguidamente, le habrían disparado perdigones en las piernas. El caso habría sido denunciado ante la Fiscalía del Ministerio Público. Ese mismo día, **Antonio González**, otro reportero del diario *Avance*, habría sido encañonado y amenazado de muerte por efectivos militares mientras cubría acciones de protesta en la ciudad de San Antonio.

1918. **Edgar López** y **Henry Delgado**, reportero y fotógrafo del diario *El Nacional*, habrían sido golpeados por miembros de la GN en Terrazas del Ávila el 1.º de marzo de 2004, mientras cubrían una manifestación convocada por la oposición.

1919. **Juan Carlos Aguirre**, reportero del canal de televisión CMT, habría sido golpeado con la culata de un arma larga por tres agentes de la GN el 2 de marzo de 2004, cuando daba cobertura a protestaciones convocadas por la oposición en Caracas. Los agentes también le habrían propinado patadas y puñetazos. Unos instantes antes, efectivos uniformados habrían lanzado bombas lacrimógenas hacia el lugar donde se encontraban representantes de la prensa.

1920. **Ana Marchese**, periodista del diario *Correo del Carona*, habría resultado herida en la espalda por el impacto de una bomba lacrimógena lanzada por efectivos del Instituto Policial del Estado Bolívar (OPL-Bolívar). Los hechos habrían ocurrido en Ciudad Bolívar el 3 de marzo de 2004 mientras la periodista estaba dando cobertura a una marcha de protesta convocada por la oposición. Ana Marchese habría sido auxiliada y trasladada a un hospital por un grupo de manifestantes. Tras la dispersión supuestamente violenta de esta manifestación, la comandancia general del IPOL-Bolívar habría decidido sustituir a tres comandantes policiales del organismo y habría resuelto expulsar a un comisario y un inspector que estaban al mando de los efectivos que habrían actuado contra los manifestantes.

1921. Por carta de fecha 5 de julio de 2004, el Relator Especial, juntamente con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, notificó al Gobierno que recibió nueva información sobre las manifestaciones que habrían tenido lugar en Venezuela durante los primeros meses de 2004. En este contexto, los Relatores Especiales quisieran referirse a sus respectivas comunicaciones con fechas de 17 de marzo y de 27 de mayo de 2004. Según las informaciones recientemente recibidas, otras personas habrían sido detenidas el 29 de febrero de 2004 en Caracas, por encontrarse en los lugares donde se habrían realizado manifestaciones, o cerca de estos lugares. Las personas detenidas habrían sido repetidamente golpeadas con puños, pies y los cascos de los guardias. Habrían sido conducidas al puesto de la GN en El Paraíso. Los detenidos habrían sido transportados unos encima de otros por lo que a muchos se les dificultaba respirar. Allí, habrían sido nuevamente golpeados y pateados por miembros de la GN en distintas ocasiones. Mientras estaban forzados a mantener las cabezas bajas, los detenidos habrían sido golpeados en la nuca con los nudillos de los dedos. Se alega igualmente que los detenidos fueron mojados con agua fría y luego rociados por todo el cuerpo con polvo extraído de cápsulas de gas lacrimógeno. Asimismo, en el comando de la GN, los detenidos habrían sido obligados a sentarse en el suelo con la cabeza hacia abajo. Luego habrían recibido el orden de levantarla y habrían sido apuntados con un rifle de

bombas lacrimógenas. En relación con estas alegaciones, los Relatores Especiales han recibido información sobre los casos individuales siguientes. El Gobierno respondió a dicha comunicación por carta de fecha 7 de julio de 2004.

1922. **Heber Gustavo Parada,** de 21 años de edad, habría sido detenido el 29 de febrero de 2004 en Caracas. Habría recibido golpes en la cara, le habrían abierto el pantalón por la parte de atrás y le habrían introducido una sustancia irritante hasta los glúteos. Presentaría un golpe de porra en la nariz. Un informe médico forense confirmaría que habría sido maltratado y habría descrito al detenido como deprimido y silencioso. Presentaría múltiples excoriaciones de forma alargada (por traumatismo con objeto alargado), hematomas en los párpados inferiores, excoriaciones con tumoración dolorosa en la pierna izquierda e incapacidad de mover la mano derecha, con hinchazón de la misma, además de tumores dolorosos en varias partes de los costados derecho e izquierdo.

1923. El Gobierno informó de que el informe de la Defensoría del Pueblo reflejó que la víctima manifestó haber sido agredida física y verbalmente por los aprehensores. Asimismo declaró haber sido maltratado en la Comandancia de la Guardia Nacional. A tenor de la información contenida en dicho informe, se evidenciaron hematomas en tobillo izquierdo, pierna derecha, espalda, rostro, brazos y manos. Se le practicó reconocimiento médico legal en fecha 3 de marzo de 2004.

1924. **David Amundaraín,** de 19 años de edad, habría sido detenido el 29 de febrero de 2004 en el barrio de Altamira, Caracas. Durante su estadía en el comando de la GN habría recibido un golpe contundente a nivel del oído izquierdo, tras el cual habría sangrado profusamente por el oído y habría perdido parcialmente sus capacidades de audición. También habría recibido múltiples patadas y golpes con cascos. Presentaría una quemadura de primer grado en la región interna de los glúteos, supuestamente debida a la aplicación de polvos irritantes. Un informe médico forense habría confirmado que estaba deprimido y había sido maltratado.

1925. El Gobierno informó de que el caso estaría siendo investigado por el Fiscal 125° del Ministerio Público con competencia en Protección de Derechos Fundamentales. Éste solicitó medidas de protección a favor de la víctima que fueron denegadas por el Tribunal 51.° de Control. En el informe elaborado por la Defensoría del Pueblo y remitido por el Gobierno consta que la víctima fue objeto de malos tratos físicos y psicológicos en el Comando de la Guardia Nacional ubicado en El Paraíso, que puede identificar a uno de los funcionarios que participó en su detención, quien también le habría infringido malos tratos, y que fue trasladado al Hospital Domingo Luciani donde se le ordenó Audiometría y Radiodiagnóstico.

1926. **Rodrigo Alegrett**, de 21 años de edad, habría sido detenido el 29 de febrero de 2004 en Caracas. Habría presentado un tumor en el cuero cabelludo, una lesión alargada causada por un corte de porra en el glúteo izquierdo, una lesión excoriada y extensa en el glúteo derecho y en general la piel de los glúteos irritada, supuestamente debido a que habría sido arrastrado por el piso.

1927. El Gobierno informó de que en virtud de lo reflejado en el informe, la víctima manifestó haber sido golpeada por los funcionarios aprehensores dentro de un vehículo de la GN. Asimismo señaló que fue maltratado física y verbalmente en la Comandancia de la GN.

Se evidenciaron hematomas en los glúteos y excoriaciones en el pecho. Se le practicó reconocimiento médico legal. El Gobierno no facilitó información alguna sobre las posibles averiguaciones iniciadas sobre la causa.

1928. **José Ramón Merlo Rojas,** de 26 años de edad, habría sido detenido el 29 de febrero de 2004 en Caracas. Habría recibido múltiples patadas, golpes con casco y puños antes de ser montado en un vehículo de la GN. Habría sido regado con polvo pruriginoso. Además, el 3 de marzo de 2004, en la mañana, habría recibido un golpe de porra en ambos glúteos por parte de agentes de la GN por no llegar a tiempo al conteo matutino. La lesión le atravesaría los glúteos en línea diagonal. Presentaría hematomas en el antebrazo izquierdo y en el hombro derecho y una herida causada por machetazo, en el lado izquierdo del cuello. Habría sido trasladado a Bello Monte.

1929. El Gobierno informó de que en virtud de lo reflejado en el informe, la víctima manifestó haber sido agredido física y verbalmente por los funcionarios aprehensores dentro de un vehículo de la GN. Asimismo señaló que fue maltratado físicamente en la Comandancia de la GN. Se evidenciaron hematomas en los glúteos y excoriaciones en el pecho. Se le practicó reconocimiento médico legal. El Gobierno no facilitó información alguna sobre las posibles averiguaciones iniciadas sobre la causa.

1930. **José Rafael Peralta Medina**, de 20 años de edad, habría sido detenido el 29 de febrero de 2004 en Caracas. Habría presentado gran tumoración dolorosa en el cuero cabelludo, numerosas lesiones dolorosas, pérdida de sensibilidad en el dedo medio de la mano izquierda —supuestamente causada por haber sido pisado con las botas utilizadas por la policía—, así como descamación y eritema severos, supuestamente debido al uso de irritantes primarios. Habría sido trasladado a la Plaza Altamira.

1931. El Gobierno informó de que de acuerdo con el informe queda corroborado que manifestó haber sido golpeado con peinillas y que se realizó reconocimiento médico legal. El Gobierno no facilitó información alguna sobre las posibles averiguaciones iniciadas sobre la causa.

1932. **Angel Daviott**, de 26 años de edad, habría sido detenido el 29 de febrero de 2004 en Caracas e introducido en un vehículo de la GN, donde le habrían cubierto la cabeza con una bolsa de plástico. Con la cabeza cubierta, habría sido tumbado en el suelo y pisoteado por unos hombres vestidos como se visten los miembros de la Dirección de Servicios de Inteligencia y Prevención de Venezuela (DISIP). Habría sido sometido a este trato tres veces. Habría presentado múltiples tumoraciones dolorosas, algunas con y otras sin hematomas evidentes, supuestamente producto de golpes contundentes. Habría presentado también una lesión alargada, supuestamente causada por un golpe de porra en la cara lateral izquierda del abdomen, irritación interglútea e inflamación sin hematoma pero dolorosa de los miembros inferiores. Habría sido trasladado a Altamira.

1933. **Carlos Eduardo Izcaray**, violonchelista de la Orquesta Sinfónica de Venezuela y profesor de música, habría sido detenido en Caracas el 1.º de marzo de 2004, tras presenciar un enfrentamiento violento entre manifestantes de la oposición y la GN en el barrio de Altamira. Carlos Eduardo Izcaray no habría participado en la protesta y cuando la situación fue haciéndose más violenta, intentó abandonar la zona. Sin embargo, habría sido interceptado

por miembros de la GN, quienes lo habrían golpeado con sus porras, propinado puñetazos y arrastrado por el pelo. Habría sido obligado a subir a la parte posterior de un furgón policial, donde habría sido golpeado en la cabeza y en la nuca con cascos, conos de balizamiento del tráfico, botes de gas lacrimógeno y otros objetos. Uno de los agentes le habría introducido una pistola en la boca y le habría obligado a repetir frases humillantes. Le habrían restregado polvos de gas lacrimógeno por la cara y el pelo y seguidamente lo habrían rociado con agua para aumentar la capacidad irritante de los polvos. También se habría visto obligado a inhalar gas lacrimógeno. Carlos Eduardo Izcaray y otros dos detenidos habrían sido amenazados de muerte y seguidamente un agente de la GN habría lanzado gas lacrimógeno en el furgón donde estaban encerrados. Cuando habrían intentado sacar la cabeza por el lateral del furgón para respirar, habrían sido golpeados para que volvieran al interior. Cuando los agentes de la GN le permitieron salir del furgón, les habrían golpeado en la espalda, los glúteos y las rodillas. Posteriormente, Carlos Eduardo Izcaray y los otros dos detenidos habrían sido trasladados al Destacamento 51 de la GN, donde habrían sido nuevamente y repetidamente golpeados y donde se les habrían aplicado descargas eléctricas en la nuca y en las manos. Los detenidos habrían permanecido recluidos en un autobús toda la noche, durante la cual habrían sido nuevamente golpeados y obligados a inhalar gas lacrimógeno. Miembros de la GN habrían intentado obligarles a admitir su participación en actos violentos durante la manifestación.

1934. **Deivis Jordán Meneses de Frietas**, un estudiante de 23 años de edad, habría sido interceptado y agredido por agentes de la GN el 1.º de marzo de 2004, cuando regresaba caminando a su casa procedente de la farmacia donde trabaja en San Antonio de los Altos, una localidad cercana a Caracas, en el etEado de Miranda. Junto con otros detenidos, habría sido retenido durante cuatro horas sin ser llevado a un centro pertinente ni sin poder realizar una llamada telefónica a un abogado o a sus familias. También habría sido golpeado por un miembro de la Policía Militar. Se alega que le denegaron la atención médica que solicitó ya que le sangraba una pierna y tenía una mano hinchada. Posteriormente habría sido puesto en libertad. No habría sido formalmente acusado ni interrogado en relación con su participación en la manifestación. Deivis Jordán Meneses de Frietas habría denunciado el trato sufrido a manos de la GN y de la Policía Militar ante la Fiscalía General de la República. Se habría abierto una investigación en la Fiscalía Primera del Ministerio Público de Miranda. El 3 de marzo de 2004 se habría sometido a un examen médico en las instalaciones de la Medicatura Forense de los Teques, adscrita al Cuerpo de Investigaciones Científicas, Penales y Criminalísticas (CICPC). Los Relatores Especiales agradecerían recibir información detallada sobre el desarrollo de las investigaciones relativas a este caso así como sobre sus resultados.

Llamamientos urgentes

1935. El 20 de julio de 2004, el Relator Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación con **Narciso Barrios**, que gestionaba un bar en la localidad de Guanayen, Estado de Aragua, **C. B.**, 16 años, **J. B.**, 15 años, **R. B.**, 16 años, **Oneida Barrios**, **Eloisa Barrios**, **Inés Barrios**, **Elvira Barrios**, **Luis Barrios** y **Justina Barrios**, todos miembros de la misma familia. De acuerdo con la información recibida, el 30 de noviembre de 2003, un policía ebrio habría iniciado una pelea con Narciso Barrios en el bar de este. Esta misma noche, la policía habría asaltado cuatro casas pertenecientes a su familia y quemado la casa de su hermano, Luis Barrios. Los agentes habrían confiscado todos los objetos de valor y habrían advertido a la

familia de no denunciar lo sucedido. El 11 de diciembre de 2003, Narciso Barrios habría muerto por disparos, al parecer a manos de agentes de la policía estatal de Aragua. Su sobrino, C. B., menor de edad, habría presenciado el homicidio. Habría prestado testimonio sobre la muerte de su tío ante la unidad local del Cuerpo de Investigaciones Científicas, Penales y Criminalísticas de la policía en La Villa. Desde entonces, la familia Barrios habría sufrido varias amenazas e intimidaciones, incluso detenciones y malos tratos. R. B. y J. B., ambos menores de edad, habrían sido detenidos el 3 de marzo de 2004. Habrían sido golpeados y amenazados de muerte por la policía. Habrían sido puestos en libertad sin cargos cinco días más tarde. C. B. habría sido detenido el 19 de junio de 2004. La policía lo habría amenazado de muerte y habría disparado un arma junto a su oído derecho, causándole una pérdida temporal de audición. Habría sido puesto en libertad tres días más tarde. Se alega además que el 5 de julio de 2004, el jefe de la policía local habría pedido a los residentes de Guanayen que mataran a C. B. porque estaba "hablando más de la cuenta". Desde entonces, el menor habría tenido que ocultarse para escapar a las amenazas de muerte. La familia habría presentado denuncias oficiales por el acoso y las amenazas ante la Fiscalía General y la Defensoría del Pueblo Regional. Sin embargo todavía no habría recibido la protección solicitada.

1936. Por cartas de fecha 27 de septiembre y 16 de noviembre de 2004 el Gobierno remitió las observaciones realizadas por la Fiscalía General de la República con fecha 19 de agosto de 2004. Ésta precisó que los fiscales correspondientes del Ministerio Público de la Circunscripción Judicial del Estado de Aragua adelantan las investigaciones en el marco de los procesos penales iniciados con motivo de la muerte del Sr. Narciso Barrios y los presuntos malos tratos y detenciones arbitrarias sufridas por algunos integrantes de la familia. Con fecha 15 de marzo de 2004 esta Fiscalía solicitó medidas de protección a los ciudadanos Pablo Solórzano, Eloisa Barrios, Inés Barrios, Beatriz Cabrera Barrios, Maritza Barrios, Juan Barrios y los menores de la misma familia R. B y J. B. En la actualidad, la tutela de las personas mencionadas estaría siendo ejecutada por miembros de la Guardia Nacional a fin de protegerlos de las amenazas recibidas por parte de funcionarios adscritos al Cuerpo de Seguridad y Orden Público. La Defensoría del Estado de Aragua declaró no haber recibido denuncia alguna relacionada con los presuntos malos tratos, amenazas y hostigamiento perpetrados contra la familia Barrios.

1937. El 16 de noviembre de 2004, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias en relación con **Luis Barrios**, **C. B.**, de 16 años de edad, **J. B.**, 15 años, **R. B.**, 16 años, **Oneida Barrios**, **Eloisa Barrios**, **Inés Barrios**, **Elvira Barrios**, **Justina Barrios**, **Carolina García**, **Pablo Solórzano**, **Juan Barrios** y **Oscar Barrios**, todos miembros de la misma familia. De acuerdo con la información recibida, Luis Barrios habría sido asesinado el 20 de septiembre de 2004, al parecer por agentes de la policía estatal de Aragua. Luis Barrios es la segunda victima de asesinato en un año. Su hermano, Narciso Barrios, habría sido asesinado en las mismas circunstancias el 11 de diciembre de 2003. En la comunicación enviada el 20 de julio de 2004, los Relatores Especiales solicitaban protección para los miembros de esta familia, en particular, Luis Barrios, C. B., J. B., R. B., Oneida Barrios, Eloisa Barrios, Inés Barrios, Elvira Barrios, Luis Barrios y Justina Barrios. La comunicación de fecha 27 de septiembre de 2004 enviada por el Gobierno confirmó la tutela de la Guardia Nacional de Pablo Solórzano, Eloisa Barrios, Inés Barrios, Beatriz Cabrera Barrios, J. B., R. B., Maritza Barrios y Juan Barrios, efectiva desde el 30 de marzo de 2004. Sin embargo, el Gobierno no proporcionó información relativa a la protección de Luis Barrios, C. B., Oneida

Barrios, Elvira Barrios y Justina Barrios también bajo serias amenazas de muerte. Asimismo, se informó de que el 18 de septiembre de 2004, Luis Barrios y su sobrino, Oscar Barrios, habrían sido amenazados por la policía estatal de Aragua a las 8:30 de la tarde. Agentes de policía, desde un automóvil oficial les habrían dicho que "no se sorprendieran cuando los visitaran unos encapuchados". El 20 de septiembre de 2004, Luis Barrios habría salido para investigar el origen de un ruido proveniente del tejado de su casa, ubicada en la Casita, ciudad de Guanayen. Al parecer, habría recibido tres disparos por dos hombres encapuchados, el primero en la parte posterior de la cabeza, y dos cuando yacía tendido en el suelo. El Cuerpo de Investigaciones Científicas, Penales y Criminalísticas habría trasladado el cadáver del Sr. Luis Barrios a la ciudad de Maracay para realizarle una autopsia. Al parecer, sus agentes no habían regresado para continuar con la investigación, y no se habría citado a ninguno de los testigos del homicidio para que prestaran declaración. Deseo señalar a su Excelencia que el 23 de septiembre de 2004, la Corte Interamericana de Derechos Humanos ordenó al gobierno venezolano que protegiera a la familia Barrios. La Corte pidió también que se apartara de su puesto a todos los policías de Guanayen implicados en las amenazas y los homicidios, para "evitar que otro miembro de la familia Barrios sea ajusticiado".

Seguimiento a comunicaciones transmitidas previamente

1938. Por carta de fecha 18 de diciembre de 2003 el Gobierno facilitó información en relación con **César Emilio Machado** (E/CN.4/2004/56/Add.1, párrs. 1924 y 1925). El Gobierno informó de que la Fiscalía Primera del Ministerio Público solicitó que se prestara el servicio de patrullaje por la urbanización La Barraca a fin de proteger al ciudadano mencionado quien habría recibido amenazas de muerte y ataques intimidatorios en su lugar de residencia.

1939. Por carta de fecha 5 de enero de 2004 el Gobierno facilitó información en relación a los siguientes casos individuales:

1940. **Baudilio Contreras** (E/CN.4/1997/7/Add.1, párr. 545). El Gobierno informó de que se abrió investigación en fecha 24 de noviembre de 1995 contra funcionarios de la Guardia Nacional, cuya identidad es conocida por el Relator Especial. El Gobierno precisó que se ordenó reconocimiento médico legal a los ciudadanos Baudilio Contreras, Orlando Antonio Sánchez, América Arias, María Sabrina Zambrano, Juan Carlos García y Ander García. A raíz de la causa penal iniciada por los abogados del ciudadano Baudilio Contreras se decretó detención judicial contra los imputados por la comisión de los delitos de lesiones personales intencionales graves y leves. Éstos últimos fueron sometidos a juicio ante el Juzgado Superior Segundo del Estado de Baringas y la causa fue remitida al Juzgado Primero de Ejecución. A través de la comunicación remitida con fecha 20 de julio de 2004 el Gobierno declaró que la Defensoría Delegada del Estado de Barinas había recibido información de la Fiscalía Superior, la cual precisó que el caso había sido llevado a juicio en 1999 y que derivó en una sentencia condenatoria apelada por la defensa, que finalmente condujo al sobreseimiento de la causa por prescripción ordinaria de la acción penal.

1941. **José del Carmen Vergel**, **Samuel García Ramírez** y **Eleuterio Duque** (ibíd, párr. 545). El Gobierno informó de que la Defensoría Delegada del Estado Apure visitó el Comité de Derechos Humanos del Municipio Páez a fin de obtener información y éste informó de que había hecho lo propio en relación a la Fiscalía. El Gobierno precisó que la Dirección de

Protección de Derechos Fundamentales se encontraba a la espera de la información concerniente a los casos, la cual había sido solicitada a la Dirección de Proyectos Especiales del Ministerio Público. Ésta última sería la encargada de conocer y procesar todas las causas que se encontraban pendientes para la entrada en vigencia del Código Orgánico Procesal Penal.

1942. **Francisco Javier Conde Guaita** (E/CN.4/1999/61/Add.1, párr. 776). El Gobierno informó de que la Comisaría del Estado de Vargas habría iniciado una averiguación sumaria con motivo de su muerte. El Gobierno confirmó que fue detenido en fecha 12 de julio de 1996 y trasladado posteriormente en fecha 23 de julio de 1996 al Hospital de Pariata donde falleció al día siguiente. El resultado de tal averiguación obraría en poder de la citada Comisaría y el expediente del caso fue recabado por la Fiscal de Transición del Estado de Vargas para ser sometido a la práctica de las diligencias debidas, de manera previa a la emisión del acto conclusivo correspondiente.

1943. **Sergio Bolívar** (ibíd, párr.787). El Gobierno confirmó que fue detenido por el delito de posesión ilícita de estupefacientes y que dicha causa fue objeto de sobreseimiento. Respecto al expediente relacionado con los supuestos de tortura, detención arbitraria o malos tratos, la Fiscal de Transición del Estado de Vargas lo recabó a fin de practicar las diligencias oportunas y emitir el acto conclusivo respectivo.

1944. **Ronald Rafael Guillén Duarte** (ibíd, párr.788). El Gobierno informó de que correspondiente a su caso fue remitido finalmente a la Fiscalía de Transición, la cual solicitó en fecha 10 de febrero de 2003 el sobreseimiento de la causa. Ésta se encontraría en la actualidad en el Juzgado Quinto en funciones de Control del Estado de Mérida pendiente de decisión.

1945. **Andrés Flores** (E/CN.4/2001/66/Add.1, párr.1268). El Gobierno señaló que la información existente sobre el caso era muy limitada. Sólo se conocía el nombre de la víctima, la fecha de los hechos y el nombre del sector donde presuntamente tuvieron lugar. Las Comisarías radicadas en los dos sectores que reciben el nombre de Barrio El Limón informaron que no existía ningún registro sobre el caso consultado. El Gobierno se mostró en cualquier caso abierto a recibir más información a fin de determinar el organismo ante el cual fue interpuesta la denuncia y poder recabar más datos que dieran lugar al inicio de una investigación.

1946. **Juan de la Cruz Bravo** (E/CN.4/2002/76/Add.1, párr.1755). El Gobierno informó de que la Fiscalía 3° del Ministerio Público de la Circunscripción Judicial del Estado de Apure informó que dicho ciudadano fue absuelto por la comisión del delito de homicidio calificado y porte ilícito de arma de fuego en fecha 6 de diciembre de 1999. Actualmente la causa estaría siendo llevada por el Fiscal 1° ante la Sala de Casación Penal del Tribunal Supremo de Justicia.

1947. **Noris del Carmen Briceño** (ibíd, párr.1756). El Gobierno informó de que la Fiscalía General de la República emitió Decreto de Archivo Fiscal en fecha 3 de marzo de 2000, sin perjuicio de una posible reapertura si se encontraran nuevos elementos de convicción. El Gobierno informó por carta de fecha 20 de julio de 2004 de que la Defensoría Delegada del Estado Trujillo solicitó información al Cuerpo de Investigaciones Científicas,

Penales y Criminalística (CICPC) de la Delegación de Valera, que constató no haber recibido denuncia alguna interpuesta por la víctima.

1948. **Alexis Medina** y **Ronny Yosmar Aquino** (ibíd, párr. 1757). El Gobierno informó sobre la denuncia presentada por diferentes ciudadanos entre los que se encuentran los mencionados, alegó que fueron víctimas de un delito de lesiones personales y señalaron como responsable al Prefecto del Distrito, quien habría ordenado a funcionarios de la Policía del Estado de Carabobo la detención preventiva de los mismos hasta la sede del Comando Policial de la Isabelica, donde presuntamente fueron agredidos físicamente y despojados de sus pertenencias, tales como dinero y prendas. El Gobierno aclaró que la Fiscalía n.º 5 de dicho Estado, emitió orden de inicio de investigación al Cuerpo de Investigaciones Científicas, Penales y Criminalísticas. Se ordenó a las Prefecturas de Distrito, San Blas, Catedral y Santa Rosa que citaran a los afectados a fin de recibir sus declaraciones. Respecto a los exámenes médico-legales que fueron ordenados por el Fiscal n.º 4 el Gobierno señaló que ninguno de los denunciantes compareció ante la Medicatura Forense para su realización.

1949. **Wilfredo Barrios** (E/CN.4/2003/68/Add.1, párr. 1933). El Gobierno senaló que el sobreseimiento de la causa decretado por la Fiscalía Superior del Estado de Sucre fue objeto de rectificación y se que continuaron las investigaciones relacionadas con el caso. En fecha 29 de abril de 2003 la Fiscal n.º 2 del Primer Circuito Judicial del Ministerio Público del Estado Sucre, dirigió comunicación al Comisario Jefe del Cuerpo de Investigaciones Científicas, Penales y Criminalísticas y solicitó el resultado del examen médico legal al que fue sometido el afectado así como su citación y recibimiento de declaración. A través de la comunicación remitida con fecha 20 de julio de 2004 el Gobierno declaró que la Defensoría Delegada del Estado de Sucre solicitó información ante la Comandancia General de la Policía y ante la Fiscalía Superior del Ministerio Público de dicho Estado, donde no se encontró denuncia alguna relativa al caso.

1950. **José Matheus Gonzalez** (ibíd, párra.1935). El Gobierno informó de que el Juzgado 11.° en funciones de Control de la Circunscripción Judicial del Estado de Zulia, dictó sentencia condenatoria para los acusados (cuya identidad es conocida por el Relator Especial), como coautores de los delitos de lesiones intencionales gravísimas y abuso de autoridad. Dicha sentencia fue objeto de sobreseimiento primero y apelación después. El caso se encontraría en la actualidad a la espera de la decisión de la corte de apelaciones.

1951. **Jesús Uribe** (ibíd, párr.1936), y **Juan Carlos Blanco** (E/CN.4/2003/68/Add.1, párr.1934). El Gobierno informó de que la Fiscal Superior del Área Metropolitana de Caracas notificó a la Dirección de Protección de los Derechos Fundamentales que no existía averiguación alguna que tuviera relación con los ciudadanos mencionados. La Fiscal 81.ª se mostró abierta a recibir información que pudiera determinar el organismo ante el cual habría sido planteada la denuncia y poder iniciar la investigación a fin de corroborar la veracidad de los hechos alegados.

1952. **O. B.** (ibíd, párr.1937). El Gobierno informó de que la Dirección de Protección de Derechos Fundamentales recibió comunicación del Fiscal Superior del Estado Miranda en el que informaba de que se había ordenado el archivo de todas las actuaciones iniciadas en relación con el caso. No existían suficientes elementos de convicción que pudieran dar lugar a una acusación formal, debido a la falta de datos que pudieran determinar la identidad de los

agresores, así como testimonios de personas que pudieran ayudar a esclarecer los hechos. Tampoco se realizó ningún examen médico legal.

1953. **Gabriel**, **Alí** y **Reinaldo Verenzuela** (ibíd, párr.1939). El Gobierno informó de que la Fiscalía 48.ª del Ministerio Público del Área Metropolitana de Caracas conocía del caso en el que aparecen como agraviados los ciudadanos mencionados y que la Dirección de Protección de Derechos Fundamentales se encontraba a la espera de la información solicitada a la misma.

1954. **Richard Duarte** (ibíd, párr.1940). El Gobierno señaló que los datos relativos a los hechos denunciados eran muy escasos y se mostró abierto a recibir información, más específicamente la dirección de la víctima, que pudiera contribuir a determinar el organismo ante el cual fue interpuesta la denuncia.

1955. **Víctor Julio Castellanos Marrero** (ibíd, párr.1941). El Gobierno informó que de acuerdo a la última comunicación la causa se encontraba en fase preparatoria. El Gobierno precisó que la Fiscalía n.º 3 del Ministerio Público de la Circunscripción Judicial del Estado Yaracuy solicitó practicar al agraviado un reconocimiento médico legal, recibir su declaración y recabar información de la policía de Marín sobre las diligencias practicadas el día que acontecieron los hechos, así como identificar a los funcionarios que practicaron la detención del agraviado. También fue solicitado el historial clínico relacionado con la intervención quirúrgica de extracción de un riñón a la que fue sometido. La denuncia interpuesta motivó la actuación de la Fiscalía mencionada. Respecto a las declaraciones efectuadas por testigos en presencia del Fiscal n.º 3, éstas no fueron recogidas en el correspondiente expediente, por lo que fue solicitado que se volviera a repetir tal diligencia y se sumaran además las declaraciones de los funcionarios policiales que trasladaron herido al detenido Víctor Castellanos a la Comisaría de Marín. Finalmente se desconocería la razón por la cual el acta policial de la citada comisaría con fecha 12 de enero de 2001 reflejaba la libertad del ciudadano mencionado, pero no su ingreso ni la identidad de los funcionarios que lo trasladaron hasta la misma. A través de la comunicación remitida con fecha 20 de julio de 2004 el Gobierno declaró que la Defensoría del Estado Yaracuy realizó varias visitas a fin de compilar información de los hechos y elaborar un expediente de seguimiento del caso. La primera de ellas fue al Hospital Central de San Felipe para verificar el estado de salud de la víctima y revisar el historial médico. Por otra parte se realizaron numerosas visitas a la Fiscalía n.º 3 del Ministerio Público, se solicitó información al Departamento de asuntos internos del Instituto Autónomo de Policía del Estado Yaracuy, y se mantenía contacto regular con la víctima por medio de entrevistas personales.

1956. **Silvano Castro** (ibíd, párr.1942). El Gobierno informó de que en fecha 22 de marzo de 2001, el Fiscal n. 6 del Ministerio Público del Estado de Bolívar se trasladó al Hospital Rosario Vera Zurita a fin de constatar el estado físico de varios ciudadanos lesionados entre los que se encontraba el Sr. Castro. Este mismo fiscal informó a la Dirección de Protección de Derechos Fundamentales de que había solicitado todas las actuaciones que cursaron ante el Tribunal Militar de Ciudad Bolívar. La Dirección de Protección de los Derechos Fundamentales se encontraba a la espera del informe que recogería las gestiones realizadas y los resultados obtenidos en relación a la presunta privación ilegítima de libertad del ciudadano mencionado, y que fue requerido a los fiscales correspondientes de la Circunscripción Judicial del Estado de Bolívar.

1957. **César Mendoza** (ibíd, párr.1943). El Gobierno señaló que la Fiscalía 83.ª del Ministerio Público del Área Metropolitana de Caracas tomó la iniciativa de recabar información relevante sobre el caso. La Dirección de los Servicios de Inteligencia y Prevención no pudo facilitar ningún dato y la organización no gubernamental Red de Apoyo por la Justicia y la Paz informó sobre el paradero del ciudadano mencionado y señaló que el caso había sido cerrado. El Servicio de Medicatura Forense fue requerido por la citada Fiscalía para averiguar si el Sr. Mendoza había sido sometido a un examen médico-legal en fecha 21 de diciembre de 2001.

1958. **Robert Donis Ramírez** (ibíd, párr.1944). El Gobierno confirmó que dicho ciudadano había sido entrevistado a instancia de la Fiscalía 126.ª del Ministerio Público del Área Metropolitana de Caracas, por el CICPC. Éste mismo organismo acordó la práctica del correspondiente reconocimiento médico legal y llevó a cabo la investigación sobre el caso. De acuerdo con la información facilitada por el Gobierno se desconoce el estado actual del proceso.

1959. **José Luis Urbano** y sus hermanas **Ruth Damaris** y **Ruth Noemí Guaicara** (ibíd, párr. 1945). El Gobierno informó que de acuerdo a la última comunicación la causa se encontraba en fase preparatoria. Asimismo el Gobierno señaló en la carta enviada en fecha 20 de julio de 2004, que a través de la Defensoría del Estado Anzoategui se realizaron diversas acciones. Se recomendó al comandante de la Policía de dicho Estado que los encausados (cuya identidad es conocida por el Relator Especial) permanecieran a la orden de la Comandancia por ser imputados en los hechos. Fueron llevadas a cabo varias visitas a dicha Comandancia y se recabó información sobre las investigaciones de carácter administrativo iniciadas y la aplicación de las sanciones disciplinarias correspondientes.

1960. **Wilson Yusunia y Abel Conde** (E/CN.4/1997/7/Add.1, párr.545), **Luis Linares** (E/CN.4/1998/38/Add.1, párr.465), **Alexander Pimentel** (ibíd, párr.466), **Francisco Beltrán** (E/CN.4/1999/61/Add.1, párr.771), **Allison Joleiska González García** (ibíd, párr.779), **Daivis Vargas Bravo** (párr.780), **Edison Pérez** (párr.781), **Robinson Mejías** (párr.782), **Leonardo Peña Rosales** y **Luis Albano Peña Rosales** (párr..785), **Gustavo Condes** (párr.786), **Pedro Monsalve** (párr.789), **Marlon Pérez** (E/CN.4/2001/66/Add.1, párr.1269), y el menor **E. A.** (E/CN.4/2002/76/Add.1, párr.1754). El Gobierno precisó que la Dirección de Protección de Derechos Fundamentales se encontraba a la espera de la información concerniente a los casos, la cual había sido solicitada a la Dirección de Proyectos Especiales del Ministerio Público. Ésta última sería la encargada de conocer y procesar todas las causas que se encontraban pendientes para la entrada en vigencia del Código Orgánico Procesal Penal.

1961. Por carta de fecha 20 de julio de 2004 el Gobierno facilitó información sobre los siguientes casos individuales:

1962. **Wilson Yusiva y Abel Conde** (E/CN.4/1997/7/Add.1, párr. 545). El Gobierno informó de que la Defensoría Delegada del Estado de Amazonas se trasladó hasta la oficina de Derechos Humanos del Vicariato Apostólico de Puerto Ayacucho, ante la cual se había interpuesto la denuncia en 1995, a fin de obtener información. El Tribunal Militar y la Fiscalía

Militar de Puerto Ayacucho, declararon que no existía ninguna averiguación judicial iniciada en relación con el caso.

1963. **Buenaventura López Soriano** (ibíd.). El Gobierno informó que la Dirección de Protección de Derechos Fundamentales recabó información relativa al caso y señaló que el Fiscal n. 3 del Ministerio Público del Estado de Apure determinó el lugar y fecha de detención de la víctima pero constató que no existía ningún registro de que el ciudadano hubiera denunciado ser víctima de abusos y por lo tanto ninguna averiguación habría sido iniciada a fin de esclarecer los hechos y determinar los responsables.

1964. **Américo Guzmán** (ibíd.). El Gobierno informó de que debido a la falta de información relativa al caso, el Fiscal 82.° del Ministerio Público del Área Metropolitana de Caracas no pudo determinar si lo hechos fueron o no denunciados y tramitados. No existía por lo tanto evidencia alguna de que de hubiera iniciado una investigación tendiente a esclarecer los hechos. En la actualidad tal delito calificado de lesiones habría prescrito.

Viet Nam

Urgent appeals

1965. On 6 January 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on human rights defenders, regarding **Nguyen Dan Que** (cited in a previously transmitted communication, E/CN.4/2004/62/Add.1, para. 837). According to the allegations received, he was accused of espionage but the formal charges against him and the date of a possible trial are unknown. He has been denied access to his legal representatives and relatives since his arrest. He is suffering from a blood pressure condition, a bleeding peptic ulcer and kidney stones. Medication, which he needs for his serious condition, has been delivered to the detention centre where he is being held, but it is unknown whether this has in fact been given to him.

1966. By letter dated 2 April 2004, the Government informed that the allegations are totally untrue. He was arrested for having committed acts in violation of article 80 of the Criminal Code, and as a result he will be brought to trial when the investigation has been completed. The right of the defendant to a fair trial is guaranteed.

1967. On 16 January 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, regarding the situation of Christians who belong to the Montagnard Degar, a group which identifies itself as indigenous, in the Central Highlands. According to the allegations received, on 21 December 2003 at approximately 1 p.m., eight truckloads of paramilitary police surrounded the village of Plei Todrah, commune of Bongong, Cu Se district, in Gia Lai province, in order to capture Christians who were reported to be hiding in the area. During this incident, the police arrested **Jum**, **Huit**, **Teng** and **Thoi**, members of the Christian community, who were hiding in the house of Ham, Won and Oh. The police tied them up and tortured them in front of the villagers. They were repeatedly beaten and kicked. They were dragged around the village.

They were later thrown onto the floors of the trucks and taken away. **Ham**, **Won** and **Oh**, who had helped the four above-mentioned individuals, went into hiding after the police completely destroyed their house. On the same day, the police arrested two other Christians, **Hlo**, from the village of Plei Pheo, commune of Bongong, and **Hua**, from the village of Plei Brong Guai, commune Ia Pet, Dak Dao district. They were publicly beaten and kicked by police officers. On 22 December 2003, a Christian named **Y Bun Ayun**, 24 years old, from Buon U village, Dak Lac province went to the police station at Cu Jut District to ask for Government permission to celebrate Christmas. The police, however, arrested and beat him, subjected him to electric shocks, and told him not to follow the Christian religion. After two days of subjecting him to torture and beatings, the police eventually released him.

1968. By letter dated 3 April 2004, the Government informed that the allegations are sheer fabrication. The rights to freedom of religion or belief and freedom of non-religion or belief are ensured. Torture and other forms of inhuman treatment and punishment are forbidden. These are clearly enshrined in the Constitution and laws and are strictly observed in practice. The Penal Code of Viet Nam has provisions on penalties for those who infringe upon the above-mentioned rights. Jum, Huit, Teng and Hoa were arrested on 22 December 2003 for acts of undermining the policy of national solidarity and unity. Huit, Teng and Hoa were released on 29 December. Hlo was arrested on 22 December 2003 and charged with rabble-rousing and acts of undermining the policy of national solidarity and unity. Y Bun Ayun, Ham, Wo and Oh are reported to be leading normal lives in their respective locations.

1969. By letter dated 14 May 2004, the Government informed that on 10 and 11 April 2004, extremist elements in localities in Dak lak and Gia Lai provinces, instigated and instructed from outside forces, in particular the Montagnard Foundation led by Ksor Kok, induced, deceived and forced the local people to carry out demonstrations. The extremists committed acts that caused public disorder. They used dangerous weapons to beat on-duty officers, causing serious injuries. They destroyed public works and property in some communes. More seriously they even dared to attack some commune headquarters, capture local officials and display banners demanding the establishment of a "Dega State". In the face of such violent acts by the extremists, law enforcement forces and people had to take defensive action. The local authorities took measures to stabilize the situation. Demonstration participants who had been misled received explanations about the issue from the local authorities and were provided with transportation to return home. The instigators, leaders and those who committed acts against public officers who were on duty were the only ones held in custody by the local government. At present life in the area has returned to normal. Recently a United Nations working team, officials from a number of embassies in Ha Noi, Vatican officials and members of the foreign press had opportunities to visit the Central Highlands. The rights of people of all ethnicities in the Central Highlands are guaranteed.

1970. On 21 September 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Pham Hong Son** (cited in previously transmitted communications, E/CN.4/2003/67/Add.1, para. 637 and E/CN.4/2004/62/Add.1, para. 838). According to the allegations received, his sentence was reduced from 13 years in prison to five years in prison and three years of house arrest. Pham Hong Son, who suffers from inguinal hernia, requires an operation as soon as possible or he

could die as a result of complications. His family members were not allowed to see him when they went on 11 September 2004 to the Yen Dinh Detention Centre.

1971. By letter dated 15 October 2004, the Government informed that Pham Hong Son's health is well taken care of and he is regularly visited by family members without any hindrance, in conformity with the Decree on implementation of imprisonment. However, on 12 September 2004, he did not comply with prison regulations, refusing to wear prisoner dress, so he was not allowed to meet with his family members. Instead, he could receive gifts from his family.

Yemen

Urgent appeals

1972. On 16 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **Kamel Berkane**, aged 31, and **Abdul Rahman Ameur**, aged 42, both Algerian nationals. According to the allegations received, they are at risk of forcible return to Algeria. They were arrested in Yemen in late 1998 or early 1999 and convicted on 9 August 1999 of conspiracy to attack public premises in Aden. They were sentenced to five years' imprisonment, which they completed in early 2004. They were sentenced following court proceedings that fell short of international standards for fair trials. Both were held incommunicado and subjected to torture and other forms of ill-treatment.

Zambia

1973. On 14 September 2004, the Special Rapporteur sent an urgent appeal, regarding **Martinho Ngola**, aged 50, an Angolan national from Kuvango, Lubango province. According to the allegations received, on 9 September 2004 around 6.30 p.m., he was placed in solitary detention in cell number 10 at the Lusaka Central Prison and tortured by four guards over a period of six hours. The men held him down on the floor and applied electric shocks to his genitals. He was detained and questioned at the Lusaka Police Force Headquarters by police, intelligence and immigration officials on 12 and 13 August 2004, and was sent to the prison on 16 August. On 1 September 2004, two officials from the Angolan Armed Forces came to visit Martinho Ngola in the prison, together with other officials of the Government of Angola. Martinho Ngola and his family are reportedly at imminent risk of deportation to Angola on the grounds that he has engaged in subversive activities in Zambia. He was denied refugee status on 13 September 2002, and withdrew his appeal in September 2003, stating that he was returning to Angola to stand in the forthcoming presidential elections. He had reportedly asked the Government of Zambia for a place to conduct military training, with the intention of training recruited Angolan refugees to join the Forcas Armadas de Seguranca Estrategica de Defesa de Angola, with which to overthrow the Government. The Forcas Armadas de Seguranca Estrategica de Defesa de Angola is reportedly the armed wing of the Partido da Unidade do Povo de Angola, of which he is the president.

Zimbabwe

1974. By letter dated 13 May 2004, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur notified the Government that he had received information regarding the situation of **Tinashe Lukas Chimedza**, former Secretary General of the Zimbabwe National Students Union (ZINASU), a youth and social rights activist and the Zimbabwe nominee to the International Youth Parliament. According to the allegations received, he was invited to speak at an Education Rights Forum at the University of Zimbabwe which was scheduled to take place on 22 April 2004. Before the start of the event, heavily armed police officers surrounded the hall and arrested Tinashe Chimedza upon his arrival. The police took him into a room where they punched him and beat him with sticks before taking him to Marlborough police station. Tinashe Chimedza, who was unconscious and bleeding heavily from the mouth, was taken to the hospital, at the insistence of his lawyers. He remained there under police surveillance. He was granted bail on 29 April 2004.

1975. By letter dated 5 August 2004, the Government informed that on 22 April 2004, the Police Internal Security Intelligence gathered information from the University of Zimbabwe security personnel that students were preparing to hold an unsanctioned meeting at the college at around 6 p.m., and that one of the speakers would be Tinashe Chimedza. There was an outstanding warrant for his arrest dating from 2001, and he had managed to elude the police. Four policemen were deployed to monitor the situation at the university because from past experience destruction of property and general mayhem usually occurred following such meetings. When a policeman approached Tinashe Chimedza at the event, he was punched by him. Members of the public were not amused when they saw a policeman being assaulted. In a case of meting out instant justice, the public started assaulting Tinashe Chimedza. Policemen eventually managed to rescue him and took him to a hospital. He received medical attention under police guard. When he was released from hospital on 23 April, he was charged with assaulting a policeman, for which he pleaded guilty and paid a fine. The earlier charges are still pending before the courts.

1976. By letter dated 18 June 2004, the Special Rapporteur notified the Government that he had received information regarding **Beatrice Mtetwa**, a council member of the Law Society of Zimbabwe (cited in a previously transmitted communication, E/CN.4/2004/62/Add.1, para. 869). According to the allegations received, she was attacked in her car and had a number of personal items stolen on 12 October 2003. She called the police about the robbery, but was accused by them of driving while being intoxicated, and was taken to the Borrowdale Police Station. Beatrice Mtetwa was was kicked, beaten and strangled by the officers en route and at the station. The police officers refused Beatrice Mtetwa's request that she be given a blood alcohol content test. She was refused medical treatment for her injuries. On 16 October 2003, Beatrice Mtetwa returned to the police station and presented her written statement relating to her charge of assault against the officer in charge.

Urgent appeals

1977. On 1 June 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, regarding **69 alleged**

mercenaries. According to the allegations received, the Government of Zimbabwe plans to extradite the mercenaries to Equatorial Guinea where they would be at grave risk of torture and unfair trial procedures, and could ultimately face the death penalty. The 69 men were arrested, along with one other man, in Harare on 7 March 2003. It is reported that they have been linked to a group of 15 men arrested on 9 March 2004 in Malabo, Equatorial Guinea and accused of plotting a coup against the President of Equatorial Guinea. In March 2004, concerns have been expressed that some, if not all, of these 15 suspected mercenaries detained in Equatorial Guinea had been severely tortured, allegedly leading to the death of one of them, Gerhard Eugen Nershz, on 17 March. The Equatorial Guinean authorities reportedly publicly admitted his death but attributed it to "cerebral malaria". However, there is reliable information that he showed signs of torture and was very ill and the prison authorities denied him prompt medical treatment. Reports demonstrate the regular use of torture in detention facilities in Equatorial Guinea for many years. Accused persons are also allegedly subjected to trial proceedings which regularly fail to meet international standards of fair trial. It is further reported that when imposed, the death penalty is summarily applied.

1978. By letter dated 2 June 2004, the Government informed that mercenaries have been the bane of many a country in Africa, with their pursuit of fortunes and regime change for their masters causing concomitant huge losses of innocent lives. Their fate in the country of return is not for the Government to judge.

1979. On 2 June 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women, regarding Mrs. **Kidd**, a Finnish citizen, residing in Chimanimani. According to the allegations received, on 28 May 2004, she was assaulted and taken from her home by a group of people, which may have been several hundred strong. They stoned her home, then dragged her through Chimanimani and forced her to clean up local offices of the opposition political party Movement for Democratic Change (MDC). These offices had earlier been destroyed by members of the same group.

1980. By letter dated 3 June 2004, the Government informed that Mrs. Kidd allegedly indulged in local politics. She further allegedly incensed the locals by letting her house be used as an office for the opposition MDC. The Government is not aware that she was allegedly assaulted because of her gender. The Government is most opposed to the politics of violence. This alleged mob reaction to Mrs. Kidd’s provocation is being investigated and any further details will be furnished when they become available. The source of provocation in this case would be in non-citizen involving him or herself in local politics. As the Special Rapporteurs seem to be well informed of the political activities of various groups in Zimbabwe, they might consider counselling non-citizens against provoking locals in their political activities. The Government at all times tries to create a level political playing field for her citizens. Foreign agitation is most ill-advised.

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