



**Economic and Social  
Council**

Distr.  
GENERAL

E/CN.4/2006/95/Add.1  
22 March 2006

ENGLISH / FRENCH / SPANISH

---

COMMISSION ON HUMAN RIGHTS  
Sixty-second session  
Agenda item 17 (b) of the provisional agenda

**PROMOTION AND PROTECTION OF HUMAN RIGHTS:  
HUMAN RIGHTS DEFENDERS**

**Report of the Special Representative of the Secretary-General, Hina Jilani**

**Addendum**

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

---

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

## Contents

	<i>Paragraphs</i>	<i>Pages</i>
Introduction.....	1 – 5	5
Afghanistan .....	6 – 7	5
Algeria.....	8 – 15	6
Argentina.....	16 – 19	10
Australia .....	20 – 21	11
Azerbaijan .....	22 – 24	12
Bahrain .....	25 – 30	13
Bangladesh .....	31 – 42	18
Belarus .....	43 – 54	23
Bolivia.....	55 – 59	27
Brazil.....	60 – 68	29
Cambodia .....	69 – 71	33
Cameroon.....	72 – 73	34
Chad .....	74 – 75	35
Chile .....	76 – 78	36
China (People’s Republic of).....	79 – 105	37
Colombia .....	106 – 139	47
Côte d’Ivoire .....	140 – 144	63
Cuba .....	145 – 154	64
Democratic Republic of the Congo.....	155 – 171	69
Dominican Republic .....	172 – 173	80
Ecuador .....	174 – 180	81
Egypt.....	181 – 186	84

El Salvador .....	187 – 189	86
Eritrea .....	190 – 191	87
Ethiopia .....	192 – 198	88
Georgia .....	199 – 200	91
Guatemala .....	201 – 231	92
Honduras .....	232 – 242	104
India .....	243 – 250	109
Indonesia .....	251 – 255	112
Iran (Islamic Republic of) .....	256 – 269	113
Iraq .....	270 – 277	119
Israel .....	278 – 289	122
Jamaica .....	290 – 291	125
Kazakhstan .....	292 – 294	126
Kenya .....	295 – 298	127
Kuwait .....	299 – 301	128
Kyrgyzstan .....	302 – 305	129
Lebanon .....	306 – 310	130
Libyan Arab Jamahiriya .....	311 – 312	132
Malaysia .....	313 – 315	132
Maldives .....	316 – 325	133
Mexico .....	326 – 342	138
Mongolia .....	343 – 344	146
Morocco .....	345 – 349	147
Myanmar .....	350 – 358	150
Nepal .....	359 – 397	155

Niger.....	398 – 402	173
Nigeria.....	403 – 405	176
Pakistan.....	406 – 416	177
Paraguay.....	417 – 419	181
Peru.....	420 – 425	182
Philippines.....	426 – 431	185
Poland.....	432 – 433	188
Russian Federation.....	434 – 453	189
Saudi Arabia.....	454 – 457	203
Serbia and Montenegro.....	458 – 462	204
Sierra Leone.....	463 – 464	205
Sri Lanka.....	465 – 470	206
Sudan.....	471 – 481	208
Syrian Arab Republic.....	482 – 496	213
Thailand.....	497 – 504	217
Togo.....	505 – 508	221
Tunisia.....	509 – 544	222
Turkey.....	545 – 558	242
Uganda.....	559 – 560	247
United States of America.....	561 – 562	247
Uzbekistan.....	563 – 589	249
Venezuela.....	590 – 595	267
Viet Nam.....	595 – 602	269
Zimbabwe.....	603 – 617	271

## Introduction

1. The present document is submitted by the Special Representative of the Secretary General on the situation of human rights defenders, Ms. Hina Jilani, to the Commission on Human Rights pursuant to Commission resolution 2003/64. The document provides summaries of the communications on specific cases addressed by the Special Representative to Governments, as well as summaries of the replies by Governments that she has received and her observations thereon.
2. In the past, such information had been included in an annex. Following up on a practice adopted in her report to the Commission at its fifty-ninth session, the information on specific cases raised by the Special Representative over the year is now published in an addendum to her main report to the Commission at its sixty-second session (E/CN.4/2006/95/Add.1).
3. The cases raised by the Special Representative in this addendum relate to cases reported to her between 9 December 2004 and 9 December 2005. The addendum contains summaries of responses received from Governments and, where necessary, translated up to and including 15 January 2005. Most of the responses by Governments refer to cases raised by the Special Representative during the period December 2004 to December 2005; however, some of the responses are to cases addressed by her in earlier reporting periods. While the summaries of these responses are included in this report, the summaries of the cases to which they refer will be found in the Special Representative's reports from preceding years (see E/CN.4/2004/94/Add.3 and E/CN.4/2005/101/Add.1, covering the previous two years).
4. As stated in the main report, a country by country profile of the situation of human rights defenders can be found in the compilation of developments in the area of human rights defenders (E/CN.4/2006/95/Add.5). In view of this existing detailed analysis, the observation section of this report has been shortened to include targeted comments on cases rather than general observations on country situation.
5. For ease of reference, and as indicated in the table of contents, cases have been grouped by country, with countries listed alphabetically according to their names in English.

## Afghanistan

### Communications sent

6. On 6 October 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning Mr. **Ali Mohaqiq Nasab**, aged 50, editor of the monthly news magazine Haqooq-i-Zan (Women's Rights). According to the information received, an Islamic cleric in Kabul filed a complaint to the police against the magazine Haqooq-i-Zan three months earlier, alleging that it published material "against Islamic teachings". The complaint referred specifically to two articles published in Haqooq-i-Zan: one criticised the severity of the punishment of 100 lashes for those found guilty of adultery. The other argued that abandonment of Islam could not be considered a crime. On 1 October 2005, **Ali Mohaqiq Nasab** was arrested on orders of the

Kabul public prosecutor's office. The Kabul public prosecutor's office was acting on instructions from the President of the Supreme Court of Afghanistan. **Ali Mohaqiq Nasab** was initially detained at a police station, but was then transferred to Kabul's main prison, where he is currently detained. **Ali Mohaqiq Nasab** has applied for bail and the Afghan Independent Journalists Association offered to act as guarantor. But it appears that no action had been taken on this application because the office of the Attorney General (Saranwali) referred the matter to a civil court, while the civil court denied its competence to decide, arguing that the Saranwali is competent to grant or deny bail. Moreover, the arrest and detention violate the law on media which establishes a procedural requirement for any alleged press offence to be referred first to the Media Evaluation Commission. The Media Evaluation Commission, however, had not considered the matter yet.

### Observations

7. The Special Representative regrets that no reply to her communication was received at the date this report was finalised. The Special Representative remains concerned about the situation of **Ali Mohaqiq Nasab**, particularly in light of further information received indicating that Ali Mohaqiq Nasab had been convicted and sentenced to two years imprisonment on 22 October 2005, and was held in Kabul Province Jail. The Special Representative reiterates the principle enunciated, inter alia, by the Commission on Human Rights in its Resolution 2005/38, that the authorities should not resort to criminal laws and punishment for media related offences as these are deemed disproportionate to the gravity of the offence and are incompatible with international human rights law.

## Algeria

### Communications envoyées

8. Le 1<sup>er</sup> mars 2005, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication sur la situation de **Brahim Ladada**, **Abdelkrim Khide** et **Rachid Mesli**, avocat algérien. Selon les informations reçues, **Rachid Mesli**, avocat algérien ayant défendu dans le cadre de son travail de nombreuses personnes accusées de «crimes et délits d'atteinte à la sûreté d'État» et de «terrorisme», et qui, en collaboration avec Amnesty International, aurait dénoncé les mauvais traitements subis par ses clients ainsi que les irrégularités de nombreuses procédures judiciaires, aurait été enlevé le 31 juillet 1996 par des membres des services de sécurité algériens. Il aurait été déféré devant un tribunal 12 jours plus tard pour «appartenance à un groupe terroriste armé» et été condamné à trois ans de prison pour «apologie du terrorisme». À sa libération en juillet 1999, M<sup>e</sup> **Mesli** aurait repris ses activités d'avocat. Devant les intimidations persistantes dont il faisait l'objet, il se serait réfugié en Suisse le 10 août 2000, où il aurait obtenu l'asile en novembre de la même année. Depuis, il serait membre actif de Justicia Universalis, une association à l'origine de plaintes pour crimes de torture et de disparition forcée, déposées contre des personnalités algériennes ayant exercé des responsabilités officielles. Le 23 mars 2002, **Brahim Ladada** et **Abdelkrim Khider**, militants des droits humains et anciens codétenus de M<sup>e</sup> Mesli, auraient été arrêtés à leur domicile à Dellys. Ils auraient été transférés dans une caserne de la sécurité

militaire où ils auraient été torturés pendant 12 jours. Selon les informations reçues, durant leur détention et sous la torture, les deux hommes auraient reconnu avoir communiqué à M<sup>e</sup> **Mesli** des informations relatives aux violations des droits de l'homme dans leur région, en particulier sur des cas de disparition forcée. Ils auraient tous deux été inculpés par le tribunal d'Alger pour «appartenance à une organisation terroriste» et apologie du «terrorisme». M<sup>e</sup> **Mesli**, quant à lui, aurait fait l'objet d'une inculpation pour «appartenance à une organisation terroriste active à l'étranger et ayant pour but de semer l'effroi au sein de la population et de créer un climat d'insécurité». Un mandat d'arrêt international aurait été délivré contre lui. Le 18 mars 2004, **Brahim Ladada** et **Abdelkrim Khide** auraient été acquittés par le tribunal d'Alger alors que M<sup>e</sup> Mesli aurait été condamné par contumace à 20 ans de réclusion criminelle pour «appartenance à une organisation terroriste active à l'étranger et ayant pour but de semer l'effroi au sein de la population et de créer un climat d'insécurité». Des craintes ont été exprimées que la condamnation par contumace de Rachid Mesli, ainsi que l'arrestation de deux de ses anciens codétenus toujours en contact avec lui, ne visent à faire entrave à son action en la faveur des droits de l'homme.

9. Le 17 mai 2005, la Représentante spéciale du Secrétaire général a envoyé une lettre d'allégation concernant **Khemais Chammari**, membre du conseil d'administration de la Fondation euroméditerranéenne de soutien aux défenseurs des droits de l'homme (FEMDH), membre du Réseau euroméditerranéen des droits de l'homme (REMDH), cofondateur de la Ligue algérienne des droits de l'homme (LADH) et ancien dirigeant de la Ligue tunisienne des droits de l'homme (LTDH). Selon les informations reçues, le 21 février 2005, alors qu'il se rendait en Algérie accompagné de Mokhtar Trifi, Président de la LTDH, pour effectuer une mission de contact et d'écoute des partenaires humanitaires pour la Fédération internationale des ligues des droits de l'homme (FIDH) afin de débattre des modes de protections régionaux, Khemais Chammari se serait vu refuser l'entrée sur le territoire par la police à l'aéroport d'Alger. Son passeport aurait également été confisqué. Les policiers lui auraient par la suite annoncé qu'ordre aurait été donné de le reconduire à l'avion, afin qu'il retourne à Paris. Khemais Chammari aurait refusé de repartir et, par solidarité, Mokhtar Trifi aurait décidé de rester avec lui. Ils auraient tous deux passé la nuit dans le hall de l'aéroport, en dépit du handicap dont souffre Khemais Chammari à l'issue d'une triple opération de la colonne vertébrale. De sérieuses craintes ont été exprimées que cette action ne vise à empêcher la volonté de dialogue entre les défenseurs de droits humains aux niveaux national et international.

10. Le 23 septembre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant le harcèlement de M. **Bellatrèche**, Président des Familles de disparu(e)s constantinoises, M<sup>me</sup> **Saker**, membre de Familles disparu(e)s constantinoises, M. **Arab**, 75 ans, père d'un disparu et membre de SOS Disparus à Alger, M<sup>me</sup> **Yous**, Présidente de SOS Disparus, bureau d'Alger, M<sup>me</sup> **Ferhati**, membre du bureau de SOS Disparus à Alger, M<sup>me</sup> **Nekrouf**, la secrétaire du bureau SOS Disparus d'Oran et des Familles de disparu(e)s constantinoises. Selon les informations reçues, le 22 septembre 2005, les Familles des disparu(e)s constantinoises se sont rendues au stade Ramdane Ben Abdelmalek, où le Président Bouteflika tenait une manifestation publique concernant le projet de Charte sur la paix et la réconciliation nationale, avec l'intention de demander audience au Président au sujet de la situation de leurs proches disparus. Les familles auraient été insultées et agressées par des agents des forces de l'ordre, en

uniforme et en civil, qui leur auraient donné des coups de pied et de poing. Parmi elles, M. Bellatrèche, ainsi que M<sup>me</sup> Saker et cinq autres mères de disparus auraient été embarqués par la police et emmenés au commissariat central afin d'être auditionnées. Elles se trouveraient toujours détenues à l'intérieur du commissariat. Ces femmes âgées de 60 à 75 ans ont l'habitude de se réunir pacifiquement pour demander vérité et justice pour les disparu(e)s. Le 14 septembre 2005, M. Arab, membre de SOS Disparus, bureau d'Alger, aurait été embarqué par quatre policiers lors du rassemblement qui se tient tous les mercredis devant la Commission nationale consultative pour la promotion et la protection des droits de l'homme, à Alger. Après avoir passé trois heures en garde à vue, le 15 septembre il aurait été inculpé d'une violation de l'article 96 du Code pénal pour avoir distribué «des tracts de nature à nuire à l'intérêt national». Par ailleurs, M<sup>me</sup> Yous, Présidente de SOS Disparus, bureau d'Alger, aurait reçu des appels anonymes lui conseillant de quitter immédiatement le territoire algérien, si elle souhaitait protéger les familles et son personnel. M<sup>me</sup> Ferhati, membre du bureau de SOS Disparus à Alger, aurait été harcelée sans arrêt depuis jeudi 15 septembre par des SMS envoyés à son téléphone. M<sup>me</sup> Nekrouf, la secrétaire du bureau SOS Disparus d'Oran et fille d'un disparu, aurait été contactée par téléphone par quelqu'un qui lui aurait affirmé qu'elle allait disparaître comme son père. Le 17 et le 18 septembre, trois policiers en civil auraient fouillé le bureau d'Oran sans présenter ni mandat de perquisition ni carte. Ils auraient interrogé M<sup>me</sup> Nekrouf pendant 30 minutes.

11. Le 18 octobre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant le sort de **Mohamed Benchicou**, directeur du quotidien *Le Matin* emprisonné depuis juin 2004 et dont l'état de santé se dégrade de jour en jour. Selon les informations reçues, M. Benchicou souffrirait d'une grave forme d'arthrose cervicale et la partie droite de son corps serait presque totalement paralysée. Par conséquent, il ne pourrait utiliser que sa main gauche. Le journaliste passerait une grande partie de son temps allongé et éprouverait de grandes difficultés à se déplacer et également à effectuer des gestes simples. Sa femme et ses avocats auraient sollicité, à plusieurs reprises, les autorités pénitentiaires de la prison d'El-Harrach afin qu'elles lui permettent de suivre un traitement adapté, sans recevoir de réponse. Mohamed Benchicou a fait l'objet de multiples plaintes en diffamation et purge, depuis le 14 juin 2004, une peine de deux ans de prison ferme. En février 2004, il avait publié un livre contre l'actuel président algérien, et lors de l'élection présidentielle d'avril 2004, *Le Matin*, journal duquel M. Benchicou était directeur, avait fait campagne contre sa candidature. Le quotidien a été par ailleurs suspendu depuis le 23 juillet 2004.

### Communications reçues

12. Le Gouvernement algérien a répondu à la communication du 1<sup>er</sup> mars 2005 par lettre en date du 9 janvier 2006. Le Gouvernement a informé la Représentante spéciale du Secrétaire général que M. Mesli avait l'objet d'une information judiciaire devant le juge d'instruction de la troisième chambre d'instruction du tribunal de Sidi M'hamed (Alger) des chefs d'appartenance à une organisation terroriste active à l'étranger et apologie du terrorisme. Le Gouvernement a indiqué que M. Mesli avait été considéré comme étant en fuite après avoir quitté le territoire alors qu'il avait été convoqué plusieurs fois. MM Khider et Ladada avaient été inclus dans la même information judiciaire. L'information terminée, le juge d'instruction a remis le dossier à la chambre d'accusation de la cour d'Alger, qui, par arrêt du 22 avril 2003, a ordonné le renvoi des prévenus devant le tribunal criminel d'Alger. Le 17 mars 2004, un jugement a été rendu

acquittant MM. Khider et Ladada et, statuant par contumace, a condamné M. Mesli à 20 ans de prison. Le Gouvernement a également indiqué que ce jugement n'était pas exécutoire car les procédures pénales prévoient que les procédures antérieures soient anéanties de plein droit dès l'instant où le condamné se présente devant la justice.

13. Le 28 septembre 2005, la Mission permanente a informé la Représentante spéciale du Secrétaire général que la communication du 23 septembre 2005 avait été transmise au Gouvernement algérien pour examen et que sa réponse lui sera communiquée en temps utile. Elle regrette qu'au moment de la publication de ce rapport elle n'ait pas reçu de réponse.

14. Le 9 décembre 2005, le Gouvernement a répondu à la communication de 18 octobre 2005. Le Gouvernement a indiqué que M. Mohamed Benchicou avait été interpellé dans le courant du mois d'août 2003 à l'aéroport d'Alger par les services de la police judiciaire alors qu'il était en possession de bons de caisse anonymes d'un montant 11,7 millions de dinars, qu'il avait omis sciemment de déclarer aux services des douanes en violation de l'ordonnance n° 03-01 du 19 février 2003, modifiant et complétant l'ordonnance n° 96-22 relative à la répression de l'infraction à la législation et la réglementation des changes et des mouvements des capitaux de et vers l'étranger. Présenté devant le procureur de la République d'El-Harrach, ce dernier a requis l'ouverture d'une information judiciaire du chef d'infraction aux articles 1, 2 et 3 de l'ordonnance précitée. Après avoir été régulièrement entendu par le juge d'instruction, Mohamed Benchicou a été placé sous contrôle judiciaire par ordonnance de ce dernier. L'information judiciaire achevée, le juge d'instruction a ordonné le renvoi de l'intéressé devant le tribunal, pour y être jugé. Après l'audition des parties, des témoins et de la défense au cours d'un procès public, le tribunal a rendu un jugement le 14 juin 2004, par lequel il condamne Mohamed Benchicou à deux ans d'emprisonnement ainsi qu'à une amende de 23,4 millions de dinars correspondant à deux fois la valeur des bons de caisse, objet du délit. Ainsi qu'il est observé, Mohamed Benchicou a été poursuivi et condamné pour une infraction de droit commun, prévue et réprimée par la loi et n'ayant aucune relation avec la liberté d'opinion ou d'expression. Un pourvoi en cassation a été introduit par Mohamed Benchicou et le ministère public les 16 et 17 août 2004. Les cinq avocats de l'intéressé ont déposé, le 6 novembre 2005, un mémoire au soutien du pourvoi en cassation. L'affaire est toujours pendante devant la Cour suprême. S'agissant de son état de santé, Mohamed Benchicou présente, selon le rapport médical de l'établissement pénitentiaire, une pathologie rhumatismale cervicale dont il souffrait avant son incarcération. Pour cette pathologie, Mohamed Benchicou est régulièrement suivi par le médecin généraliste et un médecin spécialiste qui lui ont prescrit un traitement médical antalgique et anti-inflammatoire ainsi qu'un bilan radiologique exécuté le 6 juin 2005 au centre hospitalo-universitaire de Ben Aknoun. Ainsi, Mohamed Benchicou bénéficie d'une couverture médicale permanente depuis sa détention. Il a subi toutes les analyses médicales requises et est examiné régulièrement par son médecin traitant en plus des consultations spécialisées. Les rapports médicaux du concerné attestent qu'actuellement son état de santé général est bon. Il y a lieu de préciser, enfin, que l'établissement de rééducation et de réadaptation d'El-Harrach dispose d'un corps médical permanent constitué de médecins, chirurgiens dentistes, psychologues, d'une infirmerie, d'un service de radiologie, d'un laboratoire d'analyses et d'ambulances. Des permanences sont par ailleurs assurées de jour comme de nuit au sein de l'établissement avec le concours des médecins des secteurs sanitaires.

## Observations

15. The Special Representative thanks the Algerian Government for its responses; she remains nevertheless concerned about the difficulties experienced by human rights defenders in the country in particular those working on enforced disappearances.

## Argentina

### Comunicaciones enviadas

16. El 16 de noviembre 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió una llamada urgente en relación con el **Servicio de Paz y Justicia (Serpaj)**, una organización que trabaja para la promoción de los derechos humanos y de la cultura de la paz en América Latina. Según la información recibida, el 9 de noviembre de 2005, por la madrugada, la sede del **Serpaj**, ubicada en la calle Piedras de la Capital Federal, habría sido desvalijada por desconocidos. Además de destrozarse varias puertas y muebles de la Asociación, éstos se habrían llevado seis ordenadores que contenían información sobre la organización, el fax, una impresora y documentación importante sobre la Cumbre de los Pueblos que se realizó recientemente en Mar del Plata. El **Serpaj** ha denunciado el robo a la policía. Se expresan graves temores por la seguridad y la integridad física y psicológica de los miembros del Servicio de Paz y Justicia. Se expresan temores de que el robo esté relacionado con el trabajo que lleva a cabo la organización por los derechos humanos, y en particular por su participación en los preparativos y desarrollo de la Tercera Cumbre de los Pueblos, en la que congregaron más de diez mil personas que manifestaron su oposición a la política exterior de los Estados Unidos.

### Comunicaciones recibidas

17. Por carta con fecha 6 de diciembre de 2005, el gobierno de Argentina transmitió la siguiente información en respuesta a la comunicación del 16 de noviembre de 2005 en relación con el **Servicio Paz y Justicia (SERPAJ)**. A conocimiento de la Secretaría de Derechos humanos del Ministerio de Justicia y Derechos humanos, las alegaciones coinciden con los hechos verificables en el lugar. Se dio parte a la policía, la que intervino en el caso y llevó a cabo un peritaje. Al tener conocimiento de los hechos, el Secretario de Derechos Humanos emitió inmediatamente un comunicado de prensa repudiando lo acontecido y solidarizándose con el **SERPAJ**. Un miembro del gabinete de asesores del subsecretario de Promoción y Protección de los Derechos humanos se reunió con el Sr. Pérez Esquivel para reiterar su solidaridad.

### Seguimiento de comunicaciones transmitidas previamente

18. Por carta con fecha 4 de agosto de 2005, el gobierno de Argentina ante las Naciones Unidas transmitió la siguiente información en respuesta a la comunicación del 12 de agosto de 2004 relativa a la muerte del Sr. **Martín Cisneros**, el 26 de junio de 2004 se inició la investigación a cargo de la División Homicidios de la Policía Federal Argentina. Se abrió una causa judicial (N°3716) por delito de homicidio agravado contra dos personas ante el Juzgado Nacional en lo Criminal de Menores N°6. Una de ellas, era mayor de edad y el hecho de cometer el crimen en compañía de un menor de dieciocho años de edad, se añade como agravante a su

crimen, de conformidad con el código penal. El 26 de abril de 2005, las investigaciones judiciales fueron giradas al Tribunal Oral de Menores N°3 y se encuentran en pleno trámite. El Gobierno considera que se han adoptado las medidas necesarias para que se lleve a cabo una investigación y que los responsables sean juzgados por tribunales civiles, independientes e imparciales. Queda a disposición de la Representante especial para actualizar la información.

### **Observations**

19. The special Representative thanks the Government of Argentina for its response. She is encouraged by the measures taken by the Government to ensure accountability for adverse actions against human rights defenders and positive action taken by the Secretariat for Human Rights in the case of SERPAJ. She encourages the Government to keep her updated of developments concerning the case of Martin Cisneros.

## **Australia**

### **Communications sent**

20. On 10 March 2005, the Special Representative, together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an urgent appeal concerning reports they have received of efforts, including with the support of the Government, to close down the **Aboriginal and Torres Strait Islander Commission (ATSIC)**, an organization established to defend human rights. The Special Representative and the Special Rapporteur noted that while ATSIC was established by Statute and receives its funding through the State, the organization was nevertheless intended to retain independence from Government and benefits from special Consultative Status at the United Nations in a manner similar to non-Governmental organizations. The Special Representative and the Special Rapporteur were informed of actions taken by the State to transfer the substantive responsibilities of ATSIC to other State funded bodies which do not have the same independent status, to withdraw funding, and reportedly to close ATSIC down entirely. They have also received reports of legal prosecution pursued against an ATSIC member. While it was not possible to fully assess the details surrounding the reported imminent closure of ATSIC or events related to specific ATSIC members, it was noted that the organization has brought human rights concerns to the United Nations Treaty Bodies and Special procedures from the 1990s onwards, facilitating their work and effectively representing the rights of groups of victims in Australia. The Special Representative and the Special Rapporteur were aware of a governmental review of ATSIC, published in November 2003 which recommended reform, rather than closure as well as of a report released in early March 2005 by the Senate select committee on the administration of indigenous affairs. Information was requested from the Government that would reassure the Special Representative and the Special Rapporteur in the context of Government actions with regard to ATSIC, that the provisions of the Declaration on human rights defenders and other relevant provisions of international human rights law are being fully respected.

### **Observations**

21. The Special Representative regrets that no response was received to her communication.

## Azerbaijan

### Communications sent

22. On 28 October 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning the violent dispersal of different opposition rallies, and the arrest of numerous opposition activists, journalists, civil society activists, as well as **Ali Insanov**, Minister for Health, and **Farhad Aliev**, the Minister on Economic Development. According to information received, on 23 October 2005 in Baku, police used force to disperse an unauthorized opposition rally of several hundred demonstrators calling for free and fair Parliamentary elections due to be held on 6 November 2005. According to police officials, around 15 protesters were detained. According to opposition leaders the number was closer to 100, with many having been injured. Furthermore, on 16 and 17 October 2005, 200 opposition activists, including several registered parliamentary candidates, as well as activists of the Azerbaijan Democratic Party were detained on suspicions of planning a forcible seizure of power in connection with the announced return to Baku of the exiled Chairman of the Azerbaijan Democratic Party and registered candidate for the November elections, Rasul Guliyev. The Minister for Health, Ali Insanov and the Minister on Economic Development, Farhad Aliev, were both arrested on 19 and 21 October 2005 respectively on the same grounds. On 17 October 2005, Mr. Guliyev was briefly detained in Ukraine on the basis of an extradition request by Azerbaijan claiming that he had been involved in the embezzlements of funds. On 20 October 2005, the Ukrainian authorities found that the continued detention of Rasul Guliyev could not be justified on the basis of the extradition material presented. All persons were released. However the Minister for Health and the Minister of Economic Development remained in detention. Concern was expressed on the negative impact these actions were having on the desired participation of a free and objective media, of opposition political candidates and of civil society in the forthcoming election campaign.

### Responses received to communications sent in previous years

23. By a letter dated 24 December 2004, the Government of Azerbaijan responded to the communication of 28 September 2004 regarding **Ilgar Ibrahim Ogly Allahverdiyev**, coordinator of the Centre for the Protection of Conscience and Religious Freedoms (DEVAMM). The Government stated that according to the sentence passed by the Court on the Grave Crimes of the Republic of Azerbaijan dated by 2 April 2004, Ibrahim Ogly Allahverdiyev, being found guilty in violation of the Articles 220.1 and 315.2 of the Criminal Code of Azerbaijan, was sentenced to suspended imprisonment for 5 years with 5 years trial period and ordered not to change the place of residence without prior notice of the relevant state authority. Given the suspended imprisonment of Ilgar Ibrahim Ogly Allahverdiyev, he was restricted from leaving the country in accordance with the "Law of the Republic of Azerbaijan on Exit, Entry the Country and Passports" dated 14 June 1994.

### Observations

24. The Special Representative takes note of the Government's response in the DEVAMM case. She regrets that she has not received a response to the communication sent this year.

## Bahrain

### Communications sent

25. On 13 June 2005, the Special Representative, together with the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Ms. **Ghada Yusif Jamsheer**, 38, living in Muharraq, a leading women's rights activist, President of the Women's Petition Committee and President also of the Bahrain Social Partnership for Combating Violence Against Women. According to information received, there are two separate family courts in Bahrain hearing personal status cases, including those of marriage, divorce, custody of children and inheritance—one for Sunni Muslims and the other for Shia Muslims. Since there are no written personal status laws in Bahrain, judges hearing these cases have the authority to take decisions according to their own reading of Islamic jurisprudence. On many occasions, cases are reportedly decided arbitrarily to the detriment of women's rights and dignity. For example, according to information received several judges have denied women custody of their children because the women work or are pursuing higher education. Ghada Yusif Jamsheer is the head of the Women's Petition Committee, which is a network of activists demanding reform of Bahrain's family laws and family courts. In this role, she reportedly organized, during the past four years, protests, vigils and a hunger strike in an effort to draw attention to how the existing family court system discriminates against women. She also presented numerous complaints to the Ministry of Justice and the Office of the King reporting the mishandling of cases by certain judges. According to information received, defamation charges were brought against **Ghada Yusif Jamsheer** in three separate cases for having publicly criticized family court judges. If convicted, she would face up to fifteen years imprisonment. The first court hearing took place on 9 June 2005. The next sitting was scheduled for 19 June 2005. Concern was expressed that the charges brought against **Ghada Yusif Jamsheer** were a direct attempt at silencing her work in defending women's human rights. Moreover, concern was expressed that the above-mentioned family courts are not in compliance with international laws and standards on women's human rights.

26. On 25 July 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an allegation letter concerning the disproportionate use of force by the Bahraini security forces against demonstrators. According to information received, on 15 July 2005, a group of demonstrators including Mr. **Nabeel Rajab** and Mr. **Abdulhadi Alhawaja** gathered in Manama to protest against the national budget passed by the Bahraini Parliament and the Shura Council in particular the absence of provisions for a social welfare fund for the unemployed and low earners. The demonstration had been called by the unemployed committee with participation from members of the National Committee for Martyrs and victims of torture and the Bahrain Center for human rights. Several protesters were allegedly beaten by the Bahraini police forces and some 30 demonstrators had to be taken to hospitals for treatment, some of them suffering from several fractures and other serious wounds. Nabeel Rajab is said to have sustained a fractured arm, a head injury and a broken finger. Reportedly, the Bahraini Parliament backed the police action and condemned the rally as a threat to democracy and an insult to all Bahraini citizens. On 17 July 2005 a new gathering was held peacefully to denounce the beating of protesters by police on 15 July. On 19 June 2005, during a similar

demonstration in front of the Royal Court in Rifa'a, the anti-riot police violently dispersed a demonstration of 50 unemployed Bahrainis and allegedly arrested around 30 of them who were released on the same day.

### **Communications received**

27. On 8 July 2005, the Government of the Kingdom of Bahrain sent a reply to the communication of 13 June 2005 concerning Ms. **Ghada Yusif Jamsheer**. According to the Government, eight judges of the Shariah courts lodged a complaint with the vice-president of the Court of Cassation and the chairman of the Higher Council of the Judiciary accusing Ghada Yusif Jamsheer of stirring up resentment among litigants who were unhappy with the verdicts handed down against them by the courts and of making inappropriate comments about judges. The complaint was transmitted in a letter dated 19 May 2003 through the vice chairman of the Higher Council of the Judiciary to the Attorney-General. During the same period, a Shariah judge filed a complaint against Ghada Yusif Jamsheer, accusing her of using abusive language during a telephone conversation that she had had with him. Another Shariah judge complained that she insulted and offended him and had threatened to pillory him in public. The Department of Public Prosecutions launched an inquiry and summoned Ghada Yusif Jamsheer twice for questioning. It did not place her under arrest. In the end, it referred the case to the criminal court, on the following counts: publicly insulting the Shariah courts of the Kingdom of Bahrain, an offence for which the penalty is up to three years' imprisonment or a fine of up to 500 dinars, using abusive language, in a telephone conversation, against a Shariah judge, an offence for which the penalty is up to six months' imprisonment or a fine of up to 50 dinars, and insulting a Shariah judge, an offence for which the penalty is up to six months' imprisonment or a fine of up to 50 dinars. The criminal court tried the case and delivered its judgement on 19 June 2005, dismissing the first charge on procedural grounds and referring the second and third charges to the lower court. The Government stated that the criminal case brought against Ghada Yusif Jamsheer had nothing to do with her work as a human rights activist. According to the Government, Ghada Yusif Jamsheer had organized numerous strikes and marches and had written a book and issued many statements on this subject. In this way, she was regarded by the Government as exercising her right to freedom of expression and to defend women's rights. The Government stated that the right to freedom of expression and the right to defend women's rights were regarded as matters of high priority for Bahrain, which according to the Government was making every effort to enact a personal status law for Sunnis and Shi'is. The Government stated that by referring the matter to the courts, the Department of Public Prosecutions took the view that Ghada Yusif Jamsheer had not submitted any information to substantiate her defence, and that the case was simply one of making unwarranted attacks upon the reputation of others in contravention of articles 17 and 19 of the International Covenant on Civil and Political Rights. The Department of Public Prosecutions did not place the accused in preventive custody pending further investigation, nor did it take any other kind of measure, apart from summoning her twice for questioning. The Government stated that in pursuing the investigation and referring the case to the criminal courts, the Department of Public Prosecutions took account of the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the General Assembly in 1998, and particularly articles 6, 16 and 17 thereof. According to the Government, the criminal case against her was not motivated by a desire to interfere with her activities as a women's rights advocate or to place unlawful restrictions on her

activities. The Government of the Kingdom of Bahrain affirmed its pride of its Shariah courts, which it stated to be fair, impartial and transparent. Bahrain's Shariah courts are subdivided into the Sunni courts and the Ja`fari courts, which apply Islamic law according to the school of law to which the person before it adheres or which he or she chooses upon marriage. The Shariah courts are governed by the Code of Shariah Procedures, which regulates both schools of law and establishes two levels of courts. In addition, the Judicial Authority Act defines the subject matter jurisdiction of the Shariah courts and regulates all matters relating to the discharge of their functions. The Shariah courts, like their civil counterparts in Bahrain, are inspected regularly and are subject to unannounced inspections whenever a complaint is submitted to the judicial inspection unit of the Higher Council of the Judiciary. The Shariah courts and the inspection unit are there to investigate cases or complaints concerning breaches of the provisions of the Islamic Shariah, the Convention on the Elimination of All Forms of Discrimination against Women or the Convention on the Rights of the Child, since these provisions constitute fundamental rules which the Kingdom's legal system must apply. The Higher Council of the Judiciary has issued numerous guidelines for litigants in proceedings before the Shariah courts, with a view to safeguarding children's and women's rights. For example, the Council has directed that in the absence of agreement between a divorced couple, access visits to children must be carried out at a social centre rather than a police station. The Government stated that this measure took account of the best interests of the child and of the recommendations of a number of women. The inspection unit has investigated several complaints about withdrawal of maternal custody rights, maintenance, divorce applications and other personal status matters in order to verify that court judgements do not discriminate against women and women and men are treated equally. The Higher Council of the Judiciary and the Shariah courts are working together on the elaboration of a personal status code to codify and develop the Islamic Shariah, taking account of the Kingdom's concern for the protection of women's and children's rights. The Higher Council for Women is an organ of the Bahraini Government and a focal point for all matters affecting Bahraini women. According to the Government, it spared no efforts to promote the advancement of women and to resolve the problems confronting women in all domains, it establishes appropriate mechanisms and programmes to help women play their role in all spheres. In particular, it focuses on: the participation of women in development plans; follow-up to international conventions and programmes aimed at improving the status of women in general and eliminating all forms of discrimination against women in particular; reviewing laws and legislation affecting women; giving its opinion on draft laws and decisions designed to secure better conditions and greater stability for women; training and rehabilitation designed to equip women with the skills and know-how that they need to be able to enter the labour market and secure economic independence; raising public awareness, through the media, about the importance of women's role; and focusing, in particular, on educating women about their legal and constitutional rights and duties. In conclusion, the Government confirmed that the Kingdom is committed to the protection of human rights as the inherent rights of the person. The Government of the Kingdom of Bahrain stated that it did everything in its power to guarantee women's and children's rights and that it supported activists who attempt to shake up society and to draw attention to shortcomings and failings that should be addressed and resolved without resorting to unjustified and unnecessary abuse and offensive behaviour.

28. On the 8 November 2005, the Government of Bahrain replied to the communication of 25 July 2005 concerning complaints about ill-treatment of demonstrators by members of the security forces in Manama on 19 June and 15 July 2005. The Government stated that it

understood the importance of promoting and protecting human rights and the necessity of protecting citizens' civil and political rights, as demonstrated by the democratic changes embodied in the Kingdom's Constitution of 2002, which reaffirmed the protection of human rights and public duties. Article 23 of the Constitution affirms the right to freedom of opinion and expression, while articles 27 and 28 assert the right to form associations and to hold public meetings, parades and gatherings, in accordance with the law. According to the Government, there was no doubt that the Kingdom defended the right of any person to hold opinions without any restrictions that impede the exercise of the right to freedom of opinion or the right to peaceful assembly. The Government stressed however, that this right must be exercised within the framework established by law and without prejudice to the rights or reputation of others or to national security or public order. These restrictions are referred to in articles 19 and 21 of the International Covenant on Civil and Political Rights, which is currently before the Bahraini Parliament. The Government stated that the Parliament would take the necessary measures to accede to the Covenant, and to the International Covenant on Economic, Social and Cultural rights, as it recognizes the noble principles and lofty values relating to the protection and defence of human rights which are contained in those instruments. The Government also pointed out that there had been 450 sit-ins, demonstrations and protests in the Kingdom of Bahrain in the past 14 months and that none of the participants made any allegations about being subjected to violence or the use of excessive force. The Government stated that these sit-ins were still being staged and were permitted by law and the Constitution. The Government stated that it considered it worth noting that most of the participants in the two events that are the subject of this reply also took part in similar sit-ins and demonstrations in the days that followed but did not make any allegations about violence, were not subjected to any form of violence, and did not lodge any complaints about being subjected to violence. The Government stated that the law complied with the Bahraini Constitution, and the other international treaties and resolutions which the Kingdom had either ratified, or approved, as well as the general principles on the exercise of the right to freedom of expression, and the law is implemented in a manner that does not impair or undermine the exercise of this right. The Government stated that the reply provided a clarification of the two incidents mentioned in the letter, as well as the measures taken by the Ministry of Interior, and the extent to which those measures were consistent with the relevant international treaties, the Constitution and the law. Concerning specifically the incident involving a gathering and a riot outside the National Assembly on 15 July 2005, the Government stated that on 13 July 2005, the Ministry of the Interior received a letter from an organization called the Founding Committee of the Public Committee of the Unemployed, which has yet to be issued with a permit, announcing its decision to hold a non-peaceful march on the National Assembly (the legislative authority of the Kingdom) on Friday 15 July 2005. It said that the participants intended to bombard the National Assembly with eggs and rotten vegetables, in a protest against the Assembly's failure to discuss a number of unemployment-related issues. The Ministry of the Interior issued an order banning the march as unconstitutional and an infringement of Decree-Law No. 18 of 1973, concerning public meetings, parades and gatherings, since the march was not about expression of opinion, but was intended, as the organizers and participants had made clear, as an attack upon the National Assembly. Such attacks are regarded as criminal offences under article 216 of the Decree-Law No. 15 of 1976. The matter was also widely reported in the local press. According to the Government, in defiance of the ban order, which was issued in conformity with the law, the demonstrators congregated in the vicinity of the National Assembly. The Government stated that the police ordered them to disperse, both in compliance with the banning order and because the demonstration was not

intended to be peaceful. However, the Government stated, the demonstrators stayed put and began throwing stones at the police and attacking them, held up the traffic on the public highway and damaged a police car and a traffic signal. According to the Government, some policemen were injured in the process, and the demonstrators took flight. The Government pointed out that with regards to injuries, broken bones and serious wounds sustained by 30 demonstrators, including Mr. Nabeel Rajab, the demonstrators fled after attacking the police. Not one of them filed a report with a police station or the prosecution service providing evidence of their injuries, because they, according to the Government, realized that they had committed a criminal offence. The Ministry of the Interior submitted a report to the prosecution service, with a view to bringing a prosecution against the demonstrators for attacking officers of the law. However, no one was arrested or detained following the attack. The Government stated that if injuries were sustained, it happened while the policemen were taking precautionary measures to protect themselves from a direct attack. With regard to the Bahraini Parliament's support for the police, the Government stated that it wished to point out that there was a complete separation of powers in the Kingdom of Bahrain, as guaranteed by the Constitution, and that the legal measures taken by the police to disperse the demonstrators were in conformity with the law and the Constitution. Concerning the incident involving a gathering and a riot outside the Royal Court on 19 June 2005, the Government provided that on 19 June 2005, a group of more than 50 individuals gathered in front of the Royal Court. The Government stated that because of the security implications for the location at which the gathering took place, the police asked the demonstrators to move elsewhere. However, according to the Government, the demonstrators began to throw stones at the police and attacked them with sticks. As a result, a police captain and another police officer were injured. A number of people in the crowd were arrested and escorted to the southern Governorate's Security Directorate so that proper police reports could be filed on them, and they could be referred to the prosecution service. The Government stated that they refused to give their addresses and while they were in the waiting area at the Directorate, they, and others who had come in from outside, attacked the police officers at the Directorate injuring several men. The police report on the incident was prepared and transmitted to the public prosecutor's office for processing. According to the Government, the police reportedly did not assault the demonstrators who were arrested in front of the Royal Court but demonstrators assaulted and injured the police. In the Government's opinion, the police took precautionary measures to protect themselves from a direct attack, and this led to injuries on both sides. The Government stated that it wished to point out that, although the demonstrators were in direct breach of the law, none of them were arrested, and they were dealt with in a restrained manner. As for the allegations that the demonstrators who had been arrested for breaking the law outside the Royal Court were attacked at the police directorate, the Government reported that was the demonstrators, and others who had come in from outside, who attacked and injured the police. According to the Government, the banning orders which the Ministry of the Interior issued to the demonstrators in both of the incidents mentioned in the letter were in conformity with articles 4 and 13 of Decree-Law No. 18 of 1973 on public meetings, parades and gatherings and that the articles in question permitted the banning and dispersal of demonstrations that prejudice public security or public order, as in the case of these two events. According to the Government, the aim of the first gathering was to pelt the National Assembly with rotten vegetables as an act which, as stated above, is a criminal offence under the Bahraini Criminal Code. The Government stated that the second incident, namely the demonstration outside the Royal Court, constituted a security breach, because of the type of location at which it took place. The Government reported that the police ordered the demonstrators to disperse, but the demonstrators attacked and injured

them. This is defined as unlawful assembly and rioting under articles 178-180 of Decree-Law No. 15 of 1976, concerning the Criminal Code. According to the Government, the measures taken against the demonstrators had nothing to do with their right to freedom of expression and opinion, but were taken in accordance with the law, because the demonstrators had violated the Criminal Code. In the Government's opinion, such measures are permitted under international treaties, which allow some restrictions on the exercise of the right to demonstrate, as explained above.

### **Observations**

29. The Special Representative thanks the Government of Bahrain for its detailed and prompt responses to the communications sent. She welcomes the clarifications which they bring. In the case of **Ghada Yusif Jamsheer** she is encouraged by the steps reportedly taken by the Government as well as the assurances given with regards to the protection of women's rights and women human rights defenders in Bahrain. She notes however, the the clarifications brought to her by the Government in its response do not entirely dispel her concerns with regards to the freedom that defenders enjoy with respect to criticizing existing institutions and demanding reforms in particular the Sharia courts and judge. She remains concerned in particular at the heaviness of the alleged sentence and she reiterates the principles enunciated, inter alia, by the Commission on Human Rights in its Resolution 2000/63, that criminal defamation laws should be repealed in favour of civil laws, and that sanctions for defamation should not be so large as to exert an alarming effect on freedom of expression. It is provided in the same Resolution that public figures are required to tolerate a greater degree of criticism than private citizens.

30. With respect to the case concerning the ill-treatment of demonstrators in Manama, the Special Representative is encouraged by the commitment expressed by the Government to the principle of freedom of expression and assembly and its stated intention to ratify the ICESCR. She notes however, that the explanations provided by the Government of Bahrain on the general freedom of assembly do not entirely dispel the concern expressed in this particular case.

## **Bangladesh**

### **Communications sent**

31. On 30 August 2005, the Special Representative sent an urgent appeal concerning **Advocate Rabindra Ghosh** and **Professor Ashoke Taru Saha**, President and Vice-President of the Human Rights Congress for Bangladesh Minorities (HRCBM), respectively, a worldwide campaigning movement dedicated to protecting the human rights of people in Bangladesh, in particular minorities. According to the information received, on 5 August 2005, Advocate Rabindra Ghosh and Professor Ashoke Taru Saha were reportedly assaulted by two individuals claiming to be activists from the Bangladesh Nationalist Party (BNP). They were travelling back towards Dhaka from Jamalpur Railway Station after completing an investigation, at Sarishabari Police Station of Jamalpur District, involving allegations of torture of seven people belonging to the Ahmadiyya community. The alleged perpetrators entered the 1st class compartment of the train at the Gaffargaon railway station and reportedly began to assault Professor Ashoke Taru Saha. It was reported that the perpetrators became more agitated when they saw that Advocate Rabindra Ghosh was filming the assault on a video camera and also began to assault him and

stole money from him. Following the assault Advocate Rabindra Ghosh and Professor Ashoke Taru Sahar filed a report with the police and reportedly identified the perpetrators of the attack. Allegedly no arrests were made. Concern was expressed that the alleged assaults on Advocate Rabindra Ghosh and Professor Ashoke Taru Saha were aimed at intimidating them over their investigation on Ahmadiyya Community issues and to prevent them from carrying out their human rights activities.

32. On 16 September 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an urgent appeal concerning Mr. **Suresh Chandra Halder**, former General Secretary of the Association for Village Advancement, a non-governmental organization promoting socio-economic development and alleviating poverty in Faridpur District. According to the information received, Suresh Chandra Halder, who was being held in Faridpur jail was being denied access to medical treatment. He was reported to be suffering from severe back pain. His family tried to bring medicine to the jail to ease his back pain, but the authorities at the jail refused to accept the medicine. Reports indicated that his health was deteriorating and he was losing weight. Mr. Halder was arrested on 9 August 2005 in Faridpur, by police who did not have a warrant for his arrest. At the time of the communication, he was awaiting a bail hearing. Information received suggested that the charges against Mr. Halder are false and politically motivated. Concern was expressed that the physical integrity of Mr. Halder was at risk. Moreover, concern was expressed that the charges against him and the denial of access to medical treatment might have been linked to his activity within the Association for Village Advancement.

33. On 15 November 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the question of torture, sent a letter of allegation concerning journalists who promote human rights through their reporting including, Mr. **Tipu Sultan**, a correspondent with the news agency United News of Bangladesh, Mr. **Manik Chandra Saha**, a journalist, Mr. **Khulna Hiramondol**, a journalist from Batiaghata Thana working with the daily Prabartan, and Mr. **Shahriar Kabir**, a prominent writer, as well as human rights defenders. The Special Rapporteur on torture had already sent a letter of allegation concerning Mr. Mondol on 9 August 2004. According to information received, in January 2001, Mr. Sultan, was brutally attacked by a crowd in Feni after he published an article criticising a local politician. It was only in 2001 that investigations into the attack were initiated. Mr. Sultan and his family have, since then, received numerous threats that they would be killed if Mr. Sultan does not withdraw the charges against the accused concerned. Out of fear for their lives, Mr. Sultan and his family fled to Dhaka. Moreover, following charges of illegal extortion being brought against Mr. Mondol, he was detained until 2 September 2003 when the Court finally dismissed the charges against him for lack of evidence. No investigations were initiated against the persons who allegedly tortured Mr. Mondol. In November 2003, Mr. Mondol filed a civil suit before the Khulna Sessions Court demanding compensation for the maltreatment he suffered while in detention, as a result of which he was treated in hospital where it was found that he was not able to walk on his bare feet, he had deteriorating eyesight, was unable to hold a pen in his right hand and had severe pain in several parts of his body. However the two persons, who had seen him being tortured while in custody, were allegedly threatened not to provide testimony in court. Finally, Shahriar Kabir,

was released in January 2003, after being, together with Munatsir Mamun, a university professor and human rights defender, detained since 8 December 2002 for having given interviews to journalists about the human rights situation in Bangladesh. No charges were ever brought against them. Upon being released, Mr. Mamun gave details of how he had been detained incommunicado and subjected to torture and other forms of ill-treatment while in custody. Concern was expressed that human rights defenders and journalists working on issues concerning human rights are targeted, intimidated and harassed in direct connection with their work.

34. On 7 December 2005, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning a series of **threats and attacks against the judiciary**, which had been taking place across the country. According to the information received, during the period from 29 November 2005 to 1 December 2005, a number of suicide bomb attacks occurred at a courthouse, a law office and at an office where lawyers were due to meet, killing 12 people and wounding approximately 130 people. These attacks were the latest in a series of attacks and death threats against the judiciary that began on 17 August 2005. According to the information received, two judges were killed, three were wounded and 13 received death threats in the previous three months. It was reported that the attacks and threats were targeted against the judiciary in order to force them to conduct court proceedings according to Islamic Laws, according to the intent of these groups to seek to replace the secular legal system with Islamic law. One suicide bomb attack occurred at an office where lawyers were due to meet. This attack coincided with a public strike in Dhaka protesting against such attacks to the judiciary in support of the Supreme Court Bar. Concern was expressed about the safety of judges and lawyers in Bangladesh and their freedom to carry out their legal work without pressures, threats or interferences. As a result, it was feared that the judiciary could not conduct its work in this insecure environment, and that its independence was seriously threatened.

#### **Communications received**

35. With a letter dated 31 August 2005, the Government of Bangladesh gave an interim reply to the letter of allegation dated 30<sup>th</sup> August 2005. On 27 December 2005, the Government responded again and stated that the alleged incident of torture against Advocate **Rabinder Ghosh** and Professor **Ashoke Tanu** had been investigated by law enforcement agencies. The Government stated that the findings of the investigation revealed that the incident involving Advocate Rabinder Ghosh and Professor Ashoke Tanu did occur on 5 August 2005 but that the dispute had begun when Advocate Rabinder Ghosh had mistakenly occupied the wrong seat on the train from Dhaka to Jamalpur. According to the Government, any insinuation that the incident was premeditated or politically motivated was not correct. The Government also stated that two notices were sent to Advocate Rabinder Ghosh to report to the Investigation Officer (IO) at Mymensingh Railway Police Station to provide necessary information required for the case were not responded to. While the Government stated that it deeply regretted the unpleasant incident, it wished to point out that it was in no way connected with human rights activities and furthermore that as Advocate Rabinder Ghosh did not cooperate with the requests for further information, the investigation could not be pursued.

36. By letters dated 31 September 2005 and 20 December 2005 the Government of Bangladesh transmitted the following information concerning the communication of 2 September 2005. The Mission stated that the case allegations of the rape of Sumaira Sattar were investigated and found to be baseless and that she was sent to a sanctuary for distressed women.

37. In a letter dated 27 December 2005, the Government of Bangladesh responded to the communication of 16 September 2005, concerning the detention of Mr. **Suresh Chandra Halder**. The Mission stated that Mr. Suresh Halder was arrested on charges for being accused of illegal appropriation of large amount of money of the Association for Village Advancement. The Magistrate, after hearing his bail petition, ordered that he be remanded in custody. According to the Government, in addition to this charge, he was also accused of offences under an Act designed to prevent the repression of women and children. The Government stated that the inquiries revealed that Mr. Halder had been treated for diabetes and that the jail authorities had taken appropriate measures for his medical care. The Government stated that during the inquiry he was found to be in good health and under observation of the authorised doctors.

38. In a letter dated 27 December 2005, the Government of Bangladesh responded to the communication of 7 December 2005 concerning a series of **threats and attacks against the judiciary**, which had been taking place across the country. The Mission stated that the Government had already taken stringent measures against the threats and attacks and against the perpetrators of these incidents. The Government stated that immediate action was taken to arrest those associated with these incidents, and that so far around 700 militants had been arrested by the law enforcement agencies, some 160 cases filed and 80 cases charge sheeted. The Government stated that police presence in and around court premises had been reinforced, judges had been provided with full-time, armed police escort. The Government had also launched a country-wide motivation campaign to counter the influence of extremism.

#### **Responses received to communications sent in previous years**

39. In a letter dated 18 April 2005, the Government of Bangladesh responded to the urgent appeal sent jointly by the Special Representative, the Special Rapporteur on extra-judicial, summary or arbitrary executions and the Special Rapporteur on the promotion and protection of the right to freedom of expression on 5 May 2004 concerning Ms. **Sumi Khan**. The Government stated that investigations had revealed that on 27 April 2004 at about 10.30 pm **Sumi Khan** was travelling by rickshaw at Nandan Kanaan, Kotwali, Chittagong. She was attacked by about 3 or 4 persons, who snatched away her handbag and also stabbed her. The next day she lodged a written complaint regarding the incident. Four persons were subsequently arrested, on suspicion of having been involved in the incident and were produced before the court. The Government stated that the interrogations had provided the basis for further investigation and the case was proceeding. The Government stated that all attempts have been made to secure the personal security of **Sumi Khan**.

40. In a letter dated 10 April 2005, the Government of Bangladesh provided the following information concerning the urgent appeal sent jointly by the Special Representative, and the Special Rapporteur on the promotion and protection of the right to freedom of expression on 26 August 2004 concerning **Kamal Hossain**. The Government stated that the law enforcement agencies had already initiated necessary measures in accordance with the law with regard to the

death of Dr. **Kamal Hossain** and the threats received by the Editor of “Prothim Alo” and the family members of the late Dr. Humayun Azad. With regard to the murder of Dr Hossain, the Government stated that Manikchari Police Station Case no. 4 dated 22.08.2004 was opened against ten to twelve unknown suspects. According to the Government, from the investigation and confessional statements of the accused persons, it transpired that there was a land dispute between the deceased and the accused. Reportedly this dispute led the accused and his associates to kill Dr Hossain, At the time of the reply, the Government stated that the investigation was still proceeding. With regard to the threats against **Matiur Rahman**, the editor of “Prothom Alo”, the Government stated that the authorities had investigated the matter and taken appropriate action. According to the Government, Matiur Rahman had stated that he had received threatening phone calls from unidentified callers, and that he believed the reason behind the threats was the publishing of investigative reports into the activities of a number of Madrasas in rural areas of the country. However, the Government stated, he did not lodge a formal complaint to the appropriate authorities. A procession organised by the Islamic party that was due to pass near the office of “Prothom Alo” on 22 August 2004 in protest against the criticism of Madrasa education was cancelled. Concerning the threats against family members of the late Dr. **Humayun Azad**, the Government stated that the authorities were investigating the matter. The Government stated that it had been learnt that on 25 August 2004, one of the relatives of Dr. Azad’s family received a phone call threatening him not to go to the airport to receive Dr. Azad’s dead body. The family could not identify the caller. The Government stated that the authorities had made further enquiries, but could not ascertain the identity of the caller nor the details associated with the call and that no clue or motive could be found.

41. In a letter dated 15 April 2005 the Government of Bangladesh responded to the urgent appeal sent jointly by the Special Representative, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 1 September 2004 concerning **Rafiqul Islam**. The Government stated that 20 rounds of bullets were found in the possession of Chengu Moug. According to the Government, preliminary investigation revealed that some others might have some connection with the bullets found in Chengu Moug’s possession, among them Rafiqul Islam. The Government stated that, based on the information available, Rafiqul Islam was arrested on 21 August 2004 and charged on 22 August 2004 under Section 19 of the Arms Act, in Cox’s Bazaar P.S. case no. 25 dated 22 August 2005. The Government stated that as per orders of the court, Rafiqul Islam was released on bail on 19 September 2004 and that the case against him was proceeding as per the laws of the land.

### **Observations**

42. The Special Representative thanks the Government of Bangladesh for its detailed responses. She is encouraged to observe that in a majority of cases, the Government has taken measures to ensure alleged violations are investigated and the perpetrators held accountable. In the case of the attacks against judges she is also encouraged by the concrete measures and overall attention that the Government has paid to this issue. She notes however, that despite these efforts according to the information received no perpetrators of violations have yet been brought to justice.

## Belarus

### Communications sent

43. On 28 July 2005, the Special Representative sent a letter of allegation concerning the **amendments to the laws concerning public associations** and the deterioration in the human rights situation and that of civil society in Belarus. According to information received, on 29 June 2005, a new edition of the law “about public associations” was adopted by the Chamber of Representatives of the National Assembly, requiring the registration of all public organizations and unions along with full information regarding numbers of members, structures and measures held during each year. Information is to be provided every year by 1 March. Under the new law, the activity of public associations and their unions can be suspended for up to six months on court decision, public associations can be liquidated for a single violation of the law on mass measures and also for violations of the regulations concerning the use of free foreign aid. While recognizing that it is within the ambit of states’ authorities to regulate the operation of NGOs and public associations, the Special Representative was gravely concerned that the framework laid out in the amended law might result in the prohibition of legitimate activities for the defense of human rights in Belarus and lead to the criminalization and closure of many existing human rights and civil society organizations. With regards to the new provision on public association, the Special Representative drew the attention of the Government to the Declaration on Human Rights Defenders, adopted by consensus by the United Nations General Assembly on 9 December 1998, especially article 5b, which provides that “everyone has the right, individually or in association with others, to form, join and participate in non governmental organizations, associations or groups,” and article 6c, which provides that “everyone has the right, individually or in association with others to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, though these and other appropriate means, to draw public attention to those matters”.

44. On 3 November 2005, the Special Representative, together with the Special Rapporteur on the situation of human rights in Belarus, sent an urgent appeal concerning the Belarusian Helsinki Committee (BHC), in particular its chair, Ms. **Tatiana Protsko**, and its head accountant, Ms **Tatiana Rutkevich**. The BHC had been subject to urgent appeals by the Special Representative of the Secretary General on Human Rights Defenders on 28 September 2004 and 1 October 2003, and both by 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 Human Rights Defenders on 26 May 2004. According to new information received, on 23 June 2004, the BHC was cleared of all charges of tax evasion by the Minsk City Economic Court, and the decision was upheld by the Appellate Court at the end of July 2004. The court’s decision confirmed the legality of the activities of the organization and that the BHC complied with all procedures as required by the authorities. It is reported however that the criminal investigation into the alleged tax evasion is ongoing against the BHC’s chair, Tatiana Protsko, and its head accountant, Tatiana Rutkevich, and that they could face a sentence of up to seven years’ imprisonment if convicted. Allegedly, as part of this criminal investigation, an additional audit of the activities of the BHC has been announced, and will be coordinated by the Ministry for Taxes and Collections, involving Ministry of Economy, Ministry of Foreign Affairs and Ministry of Justice of the Republic of Belarus. Despite the final decision by the Supreme Economic Court (SEC) and the fact that this matter is *res judicata*, it was reported that the criminal investigation

into the alleged tax evasion continued. On 14 October 2005 the BHC received a copy of a protest against the court decision prepared by the Deputy Chair of the SEC, Eugene Smirnou. According to the Deputy Chair, the BCH should return to the state budget a sum of approximately 70,000 euros. Should the SEC Presidium accept the Deputy Chair's protest, it was feared that the prosecutor would renew the closed case. Concern was expressed that the primary motivation behind the renewing of the case may have been to prevent BHC from carrying out its human rights activities. The penalty of 70,000 euros would in effect result in the liquidation of the human rights organization. This concern was heightened in the light of information received regarding the alleged closure of a number of human rights NGOs between 2003 and 2005, a number of which also were the subject of urgent appeals by the Special Representative. The Special Representatives thanked the Government for its response to its urgent appeal of 1 October 2003 by letter dated 16 June 2004, to its urgent appeal of 26 May 2004 by letter dated 5 July 2004 and to its urgent appeal of the 28 September 2004 by letter dated 12 January 2005 and welcome the acquittal of the BHC on 23 June 2004 for tax evasion, which has been upheld by the Appellate Court in the same year. Nevertheless, the Special Representative remained concerned about the possibility of the reopening of the case against BHC's chair and head accountant.

45. On 16 November 2005, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights in Belarus sent an urgent appeal concerning Mrs. **Vera Stremkovskaya**, a lawyer and human rights activist. According to the allegations, on 28 October 2005, the Minsk Bar Association rejected her application to leave the country to participate in an international conference on the "Role of defence lawyers in guaranteeing a fair trial". The conference was organized by the Organization of Security and Co-operation (OSCE) and held on 3 and 4 November in Tbilisi, Georgia. Concerns were expressed that her application to attend the conference may have been refused in order to prevent her from discussing potential changes to the legislation on the independence of judges and lawyers in Belarus. According to the information received, Mrs. Vera Stremkovskaya had been prevented from traveling to international conferences on a number of previous occasions.

46. On 7 December 2005, the Special Representative, jointly with the Special Rapporteur on the situation of human rights in Belarus and the Special Rapporteur on promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning the adoption by the Chamber of Representatives of the Belarusian Parliament on 2 December 2005 of **amendments to the Criminal Code and the Code of Criminal Procedure of the Republic of Belarus**. These amendments would be adopted if on 16 December 2005 the Upper Chamber of Representatives of the Belarusian Parliament approved them at their second reading. Concerns were expressed that the adoption of many of the provisions included within the draft text would lead to violations of the Declaration on the Right to the Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms—otherwise known as the Declaration on Human Rights Defenders—as well as other international human rights standards. Of particular concern were proposed amendments to introduce criminal sentences for the illegal organization of activities by an association or a foundation, or participation in their actions (article 1931), the criminalization of funding for, and the training of any other type of educational activity, including the participation

in “mass activities” (article 293), and the criminalization of funding and training of “group activities which seriously violate public order (article 342), the criminalization of providing “false information” to a foreign State or international organization, concerning the political, economic, military or international situation of the Republic of Belarus, as well as on the judicial situation of Belarusian citizens; the criminalization of providing information to foreign States or international organizations, when such information is detrimental to the internal security, sovereignty or territorial integrity of Belarus, with harsher prison sentences if such information is distributed through the mass media. In view of the fact that the terms “mass activity” and “group activity” were not defined, concern was expressed that these articles could potentially lead to their arbitrary and unjust interpretation, to the detriment, particularly, of members of independent organisations. The new provisions also stipulated that “people suspected of terrorism or vandalism may be detained for ten days before being charged” without providing definitions of what amounts to “terrorism” or “vandalism”. Concern was expressed that these amendments, in addition to the new “Law on Public Association” adopted in August 2005, may further reduce the possibility for independent human rights organizations and the media to work in a free and democratic environment, which is particularly vital in the lead up to Presidential elections. Furthermore, concern was expressed that the new article on “Discrediting the Republic of Belarus” might compromise the integrity and level of cooperation between civil society, human rights defenders with international human rights bodies including the UN special procedures.

### **Communications received**

47. On 26 October 2005 the Government of Belarus responded to the communication of 28 July 2005 concerning changes the Public Associations Act. The Government stated that the Act was designed to further improve national legislation concerning the establishment and activities of public associations and that it broadens the democratic foundations of the activities of public associations in the country, while requiring compliance with the law in regard to their establishment and functions. It stated that the provision relating to the possible liquidation of associations for violations relating to the use of free foreign aid was already consolidated in Presidential Decree No. 24, dated 28 November 2003. With regard to the provision allowing the suspension of activities for a period of six months, the Government stated that this affords an interim solution to the question of applying more stringent sanctions to law-breaking public associations and their unions, so that it is not immediately necessary to consider the question of their liquidation. The Government stated that it was taking all possible measures to fulfil international obligations concerning freedom of association and that the formation of civil society and the enhancement of the role of public associations are based on primarily on the national Constitution, which proclaims everyone’s right to freedom of association. According to the Government, the enforced liquidation of public associations in the Republic of Belarus may be effected by judicial means and that this is consistent with world practice. The Government stated that no instances had been recorded in the country of the liquidation of public associations under an administrative procedure or for minor individual breaches.

48. By a letter dated 10 January 2006 the Government of Belarus responded to the communication of 16 November 2005. At the time that this report was being finalized this reply had not been translated.

49. By a letter dated 10 January 2006 the the Government of Belarus responded to the communication of 7 December 2005. At the time this report was being finalized the full text of this reply had not been translated. The Mission did, however, refer to a press release dated 9 December 2005 by the Special Rapporteur on Belarus where he referred to the draft amendments as “violating the Republic of Belarus’ international human rights obligations” and suggested that the amendments would “have a negative impact on the cooperation between the special procedures of the Commission on Human Rights and civil society.” In reference to these statements, the Mission stated that they were made without a proper analysis of the amendments and that it had the impression that the Special Rapporteur was intentionally seeking to influence the conclusions that should be made on the situation in question by appropriate thematic procedures. The Mission stated that it was the manner in which individual cases are approached by the Special Rapporteur on Belarus that may undermine the ongoing cooperation between the Belarussian Government and the thematic procedures. The Mission also stated that it reiterated the commitment of the Government of Belarus to constructive and transparent cooperation with the thematic procedures of the Commission of Human Rights.

50. By a letter dated 1 February 2006, the Permanent Mission of Belarus sent a preliminary response to the communication of 3 November 2005 concerning the situation of the Belarusian Helsinki Committee, indicating its transmission of the communication to the Government.

### **Observations**

51. The Special Representative thanks the Government for its reply to the communication of 28 July 2005, but regrets that at the time this report was being finalised it was not possible to comment on the case of **Vera Stremkovskaya**.

52. The Special Representative looks forward to the Government’s reply concerning the situation of the Belarusian Helsinki Committee.

53. While the Special Representative acknowledges the Government’s position with regard to changes in the **Public Associations Act**, she is concerned that such changes may have the effect of preventing and restricting the operation of non Governmental organizations who conduct activities in defense of human rights. The Special Representative remains concerned regarding the provision that allows public associations to be liquidated for a single violation of the law. Furthermore, allowing the suspension of activities on behalf of public associations before it has been proven that they are in violation of the law may have the effect of severely harming their activities in defense of human rights, even if it is found subsequently that their activities are not in contravention of the Public Associations Act.

54. The Special Representative regrets that she has not received a response to her request for an invitation to conduct a country visit.

## Bolivia

### Comunicaciones enviadas

55. El 19 enero 2005, la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y abogados y el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente con respecto a miembros del **Centro de Estudios Jurídicos e Investigación Social (CEJIS)**, en particular, el abogado y miembro **Cliver Rocha**, cuyo caso fue objeto de dos llamamientos urgentes enviados el 2 de abril y el 7 de mayo de 2003 por la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la independencia de magistrados y abogados, la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas. Según la información recibida, el 5 de enero de 2005, la entrada de la oficina del **CEJIS** en la localidad de Riberalta, departamento de Beni, fue violentada por 30 hombres armados y supuestos dirigentes de la Asociación Agroforestal de Riberalta (**ASAGRI**), quienes habrían destruido el interior de la oficina y quemado varios documentos relacionados con la propiedad de la tierra. Según los informes, el ataque habría estado acompañado por un aviso general de abandonar la zona en 48 horas y una amenaza de “quemar vivo” a Cliver Rocha si regresaba a Riberalta. De acuerdo con las informaciones recibidas, el 8 de enero, por medio de un ‘Manifiesto Público’, la **ASAGRI** habría justificado el ataque contra el **CEJIS** y lo habría acusado de ‘enfrentarlos con los hermanos campesinos e indígenas’. Asimismo, la **ASAGRI** habría amenazado a otras organizaciones que trabajan sobre problemas agrarios, con tomar acciones de hecho si no se van antes de fin de enero de 2005. La **ASAGRI** habría también amenazado de expulsar por la fuerza a los indígenas tacañas de la zona de Miraflores si se niegan a irse de la tierras comunales que les habrían oficialmente concedidas en 2002. Hasta la fecha los amenazados no habrían recibido medidas cautelares de las autoridades. Solo se les habría recomendado que las oficinas del **CEJIS** se cierren hasta el 13 de enero cuando una comisión nacional llegará a la zona para tentar de resolver los problemas de tierras. Se expresaron temores que las amenazas recibidas por **Cliver Rocha** y otros miembros del **CEJIS** estuvieran relacionadas con su trabajo como defensores de los derechos humanos, en particular, la asistencia legal que ofrecen a las comunidades indígenas y campesinas que luchan por el derecho a la tierra.

56. El 25 mayo 2005, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con **Silvestre Saisari Cruz, Presidente del Movimiento Sin Tierra de Santa Cruz (MST-SC)**; una organización que representa a unas 400 familias sin tierra que vienen ocupando terrenos en la provincia de Obispo Santiestevan, Departamento de Santa Cruz, desde agosto 2004, formando una comunidad de campesinos a la que han llamado “Pueblos Unidos”. Según la información recibida, el 9 de mayo de 2005, en la plaza principal de Santa Cruz, Silvestre Saisari Cruz fue atacado por un grupo de personas, quienes le golpearon gravemente. El ataque ocurrió a la salida de una conferencia de prensa donde Silvestre Saisari Cruz puso en conocimiento la realización de un ataque de elementos vinculados a un terrateniente sobre la comunidad “Pueblos Unidos”, que ocurrió el 7 de mayo 2005. Según se informó, la Policía Nacional intervino para protegerle y la agresión fue fotografiada por reporteros. Los atacantes sustrajeron el bolso de Saisari Cruz, el

mismo que contenía documentación sobre las denuncias y su teléfono celular, desde donde luego hicieron llamadas intimidatorias a otros asesores y dirigentes del MST. Se informó también que algunos de dichos documentos, sustraídos de su bolso, fueron mostrados al día siguiente en televisión, durante una entrevista con un hacendado local en el canal nacional de televisión Red 1 de Bolivia. Se expresaron temores que este ataque contra Silvestre Saisari Cruz pudiera estar relacionado con su trabajo en defensa de los derechos humanos de las familias campesinas.

### **Comunicaciones recibidas**

57. Por carta con fecha 6 de abril de 2005, el gobierno de Bolivia transmitió la siguiente información en respuesta a la comunicación del 19 de enero de 2005 sobre el caso del **Centro de Estudios Jurídicos e investigación Social (CEJIS)**. El Viceministerio de Justicia a través del Proyecto Pueblos Indígenas y Empoderamiento informó que el 6 de enero de 2005, la fiscalía de Riberalta fue solicitada para la investigación y la sanción a los responsables de los supuestos allanamientos y destrozos. El gobierno informó que el 19 de enero 2005, una comisión constituida por representantes del Ministerio de Asuntos Indígenas, el Gobierno y el Viceministerio de Justicia, se encontró con la encargada de la investigación preliminar, para que se acelere el proceso contra los presuntos responsables del vandalismo. Ese mismo día la Fiscal admitió la demanda presentada por CEJIS. Un Fiscal Especial fue designado para hacerse cargo de las investigaciones, adoptar las medidas necesarias para proteger a las víctimas e informar al Viceministro de Justicia de sus actividades cada semana. El gobierno informó que el 9 de febrero 2005, se firmó una resolución triministerial en la que se resolvió: garantizar el derecho de los indígenas a sus tierras de origen, prestar asistencia ante toda amenaza a la vida e integridad física y moral en contra de los miembros de las comunidades, autoridades naturales y sus asesores en el ejercicio de las funciones de saneamiento agrario y de defensa de los recursos naturales, apoyar al Ministerio Público en todo proceso que involucre a comunidades indígenas. El 23 de febrero 2005, la Comisión de Derechos humanos de la Alta Cámara de Diputados envió una comisión (con un miembro designado por el Viceministerio de Justicia) para participar en la audiencia de reconstrucción del asalto de la oficina del CEJIS por parte de miembros de ASAGRI. También se reunió con miembros de la Central Indígena de la Región Amazónica de Bolivia que denunciaron la negligencia de las autoridades con respecto a este caso. Finalmente se reunieron con miembros de ASAGRI quienes se presentaron como víctimas de una mala aplicación de la ley y denunciaron a las ONGs de la zona como responsables de enfrentamientos entre indígenas y campesinos. El gobierno informó que la comisión los exhortó a evitar acciones de hecho y a recurrir a las instancias que existen para hacer prevalecer sus derechos. El 21 de marzo, Viceministerio de Justicia se enteró a través de los medios de comunicación, pero no de manera oficial, que la Comisión Interamericana de Derechos Humanos solicitó al estado boliviano medidas cautelares para proteger la comunidad indígena de Miraflores y los miembros del CEJIS, garantizar al ejercicio libre como defensores de derechos humanos y llevar adelante una investigación exhaustiva de los hechos denunciados. La Comisión solicitó presentación de un informe en un plazo de 15 días.

### **Observations**

58. The Special Representative thanks the Government of Bolivia for its reply to the communication of 19 January 2005, but regrets that at the time this report was being finalised no reply had been received to the communication of 25 May 2005.

59. The Special Representative acknowledges the measures that have been taken to investigate the case of **Centro de Estudos Jurídicos e Investigación Social (CEJIS)** and looks forward to receiving further information regarding the results of the investigation and regarding any measures of protection that have been taken to ensure that the members of CEJIS are free to carry out their legitimate activities in defense of human rights.

## Brazil

### Communications sent

60. On 4 March 2005, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegation concerning the killing of **Sister Dorothy Stang**, an environmentalist, human rights defender and member of the Pastoral Land Commission (Comissão Pastoral da Terra), an organization of the Catholic Church which works to promote and defend the rights of rural workers and land reforms in Brazil. According to the information received, on 12 February 2005 at approximately 9.00am, Sr Dorothy Stang was shot several times, resulting in her death, as she walked to attend a meeting in the town of Anapu, Pará. The early morning attack came less than a week after Sr. Dorothy had met with the Brazilian Human Rights Minister, Secretary Nilmário Miranda, to report that four local farmers had allegedly received death threats from loggers and landowners. Sr. Dorothy had received a number of awards for her work as a human rights defender, including the "Human Rights Award" from the Bar Association of Brazil (OAB-Ordem dos Advogados do Brasil), which she received on 10<sup>th</sup> December 2004. It is also reported that the OAB had included Sr. Dorothy on a list of human rights defenders who faced possible assassination. On 22 October 2004, the late Sr Dorothy met with the Special Rapporteur on the Independence of judges and lawyers in Belém during his mission to Brazil. It is feared that Sr Dorothy was killed as a direct result of her human rights work, in particular her work to denounce violations landowners and illegal loggers in the state of Pará. The Special Representative commended the Brazilian Government for the swift action it took to bring those responsible to justice and the steps adopted to address the climate of vulnerability experienced by human rights defenders in the state of Pará. The Special Representative, however, remained concerned for the life and safety of human rights defenders in this area, especially those individuals who have interacted with UN mechanisms. Her concerns were heightened by the fact that the killing of Sr Dorothy Stang constitutes the third case of such reprisals in Brazil against human rights defenders who have interacted with UN mechanisms. In particular, she referred to her letter dated 17 October 2003 concerning the killings of Flávio Manoel da Silva, a key witness for investigations into the actions of extermination groups operating in the cities of Itambé and Pedras de Fogo, and of Gerson Jesus Bispo. Both men had provided information to the Special Rapporteur on extrajudicial, summary or arbitrary executions during her country mission to Brazil in September 2003. In view of her planned visit to Brazil, the Special Representative called on the Government of Brazil to explore appropriate measures to ensure the protection of those individuals who interact with the United Nations, in particular Special Rapporteurs and Representatives of the Commission on Human Rights.

61. On 16 March 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent a letter of allegation concerning the

**Landless Workers' Movement** (Movimento dos Trabalhadores Sem Terra, MST), an organization working for the protection of the economic and social rights of landless rural workers. According to the information received, on the morning of 8 November 2004, approximately 100 members of the MST gathered on the Paulo Freire encampment, in the municipality of Jandaia, in the interior of Goiás. It was reported that they began an organized and non-violent protest against the alleged sale of land in the encampment to people who fail to meet the criteria for selection as set by the National Institute for Settlement and Agrarian Reform (Instituto Nacional de Colonização e Reforma Agrária, INCRA). Shortly afterwards, it was alleged that the Military Police of Goiás confronted the protestors and ordered a search for weapons. It was reported that no weapons were found. According to information received, during this incident several protestors were severely ill-treated by officials operating under the leadership of a Lieutenant, whose name is known to the Special Representative. Reports indicated that subsequently 90 members of MST were subsequently imprisoned. They were allegedly detained in cramped and over-crowded conditions and several were reportedly subjected to further ill-treatment, as later attested to in court by the doctor on duty that night. On the morning of 9 November 2004, lawyers were prevented from meeting with the detainees, photographing their injuries, and documenting the evidence of ill-treatment. The majority was later released the same day, but nine remained in custody for a further 25 days, on charges of unlawful possession (*esbulho possessório*) and damages (*dano qualificado*). The arrest order was subsequently upheld by the local judge, and bail denied by the County judge. A habeas corpus appeal to the Goiás State High Court was filed on their behalf, but before the Second Criminal Chamber of the High Court could hear the case, the County Judge released the remaining detainees on bail. The charges were subsequently changed by the local judge in the Court of Jandaia to crimes punishable with detention after police were unable to prove unlawful possession. It was reported that the majority was released the following day. However, nine detainees remained in custody for a further 25 days and were charged with unlawful possession and damages. A habeas corpus appeal to the Goiás State High Court was filed on their behalf (trial no. 200402168636), but before the Second Criminal Chamber of the High Court could hear the case, the County Judge released the remaining detainees. Concern was expressed that the reported mass arrest and ill treatment of the protestors by the military police officials may have constituted an attempt to intimidate them and, thereby, discourage them from further claiming an open and honest selection procedure for land distribution in the municipality of Jandaia.

62. On 3 August 2005, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions sent a letter of allegation concerning **Paulo Henrique Machado**, a 35-year-old Brazilian priest who was reportedly shot dead on or around 25 July 2005. He was reportedly shot at least five times while in his car in the Nova Iguacu area of Rio de Janeiro. Concern was expressed that he was killed in retaliation for his campaigning for the families of 29 people who were allegedly killed by rogue police officers on 31 March 2005. Indeed, Paulo Henrique Machado headed a support group for victims of the so-called Nova Iguacu massacre which led to charges against eight police officers. The massacre began when gunmen opened fire on a crowd at a street-corner bar killing 17 people, before they drove to the Queimados neighborhood where they killed another 12 people in two separate shootings. It was understood that the police initiated an investigation into the killing of Mr. Machado with a view, inter alia, to determine if his death was linked to the above-mentioned massacre. It was emphasized that the inquiry into the killing must fully comply with relevant international standards, including the United Nations Principles on the Effective Prevention and

Investigation of Extra-legal, Arbitrary and Summary Executions. In particular, principles 9 to 19, which oblige Governments to conduct a thorough, prompt and impartial investigation of all suspected cases of extra-judicial, arbitrary or summary executions, to make public the results of these inquiries and to ensure that persons identified by the investigation as having participated in such executions in any territory under their jurisdiction are brought to justice.

63. On 10 October 2005, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning **Mr. Antonio Fernandez Saenz**, lawyer, **Mr. Manuel Fernando Fernandez Saenz**, evangelical minister, **Mr. José Fernandez Saenz**, evangelical minister, and **Ms. Dirce Ramiro de Andrade** journalist working for the evangelical church. Antonio Fernandez Saenz is a lawyer who provides legal assistance to socially deprived inhabitants of the Jardim Lavínia, Silvinha and Montanhão neighbourhoods in São Bernardo do Campo, a town south of São Paulo. In addition he provides voluntary legal support to the human rights chapter of the Pentecostal and Apostolic Church of the Mission of Jesus in São Paulo, which is run by his two brothers Manuel Fernando Fernandez Saenz and José Fernando Saenz, who like him have dual Spanish and Brazilian citizenship. Journalist Dirce de Andrade works at the same church as the two brothers. According to information received, on 3 September 2005, after midnight, it was reported that several military police officers forced their way into Antonio Fernandez Saenz's office in São Bernardo do Campo. The officers reportedly presented no search warrant and allegedly took several documents containing statements by local residents accusing the civil and military police of torture, extortion and sexually assaulting children. After reporting the robbery to the military police, officers from the 2nd Company of the 6th Battalion in the State of São Paulo allegedly tried to dissuade Antonio Fernandez Saenz from filing a complaint, and threatened and intimidated him and his wife. Journalist Dirce de Andrade, was reportedly also threatened with detention and prohibited from taking any photographs at the scene. Subsequently, Dirce de Andrade, Antonio Fernandez Saenz, Manuel Fernando Fernandez and José Fernandez Saenz went to the 2nd police station of São Bernardo do Campo to file a complaint there. They were reportedly charged with "disobedience" and "disrespect of authority" before being released. Following the reported intervention of a local police officer, Antonio Fernandez Saenz filed a complaint regarding the unlawful entry to, and theft of documents from, his office. Dirce de Andrade, Antonio Fernandez Saenz, Manuel Fernando Fernandez and José Fernandez reported continuing harassment and anonymous telephone calls threatening them and urging them to drop the complaint. Concern was expressed for the safety of Antonio Fernandez Saenz and his wife, Manuel Fernando Fernandez Saenz, José Fernandez Saenz and Dirce Ramiro de Andrade and that the search of Antonio Fernandez Saenz's office and the subsequent threats constituted an attempt to silence these individuals and prevent them from documenting and reporting on alleged human rights violations committed by the civil and military police.

64. On 28<sup>th</sup> November 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation concerning **Mr. Pedro Laurindo da Silva**, member of the Federação dos Trabalhadores na Agricultura (FETAGRI), one of the Directors of the Sindicato dos Trabalhadores Rurais (STR) de Marabá, in the southeast of Pará state and Co-ordinator of the "Zumbi dos Palmares II" camp, a community working for the appropriation of the "Cabo de Aço" Hacienda. According to the information received, on 17 November 2005, at

approximately 19:30, on one of the principal streets of Marabá, Mr. Pedro Laurindo da Silva was killed by a man who was later detained by police (and the identity of whom is known to the Special Representative). Pedro Laurindo da Silva had been participating in a seminar on violence and human rights, in Marabá, which had been organised by the Sociedade Paraense de Defesa dos Direitos Humanos. At the end of the day Pedro Laurindo da Silva had gone to the headquarters of the STR. Following a meal he left to make a phonecall and upon his return to the headquarters with some of the other leaders, he was confronted by the gunman and shot twice in the head, approximately 200 metres from the STR. The gunman had been working minding cows and had been seen on a number of occasions at the “Cabo de Aço” Hacienda. Grave concern was expressed that the killing of Pedro Laurindo da Silva is related to his human rights activities. In particular, during the seminar on violence and human rights, he had denounced the police violence used during eviction of families from the Hacienda. He had lodged a complaint to the National Programme for Human Rights Defenders over death threats he had received due to his human rights work. He had not received this protection.

### **Communications received**

65. By a letter dated 29 March 2005, the Government of Brazil responded to the communication of 4 March 2005 in relation to the murder of Sister **Dorothy Stang**. The Government stated that immediately after the assassination of Sr Dorothy the Federal Government took the following measures: On 12 February 2005 the Special Secretary for Human Rights, Minister Nilmario Miranda travelled to the Municipality of Altamira in the state of Para. The Minister for the Environment, Marina Silva, also went to the place where the killing had occurred. Federal Police accompanied the Minister for the Environment to the scene of the crime in order to initiate an investigation and to provide police protection for the witnesses. At the time of the reply, the Government stated that the Federal Police in partnership with the Civil Police of the state of Para were continuing the investigation. On 13 February 2005 the Justice of the State of Para issued an order for the preventative arrest of 4 people suspected of being involved in the killing of Sr Stang. Of these four people, three had been arrested at the time of the reply. The Government stated that the authorities were treating the apprehension of the fourth suspect as a high priority. The Government stated that measures had also been taken to strengthen and guarantee the protection of human rights in the region. On 21 February 2005, a working group was created in the Special Secretary for Human Rights of the Presidency of the Republic to monitor the situation in the State of Para. The Government stated that the Working Group would present suggestions of action to be taken by federal and state officials in order to fight violations of human rights.

### **Observations**

66. The Special Representative thanks the Government of Brazil for its reply to the communication of 4 March 2005, but regrets that at the time this report was being finalised no replies had been received to the communications of 16 March 2005, 3 August 2005, 10 October 2005 and 28 November 2005.

67. With regard to the response concerning the murder of Sr **Stang**, the Special Representative welcomes the swift action on behalf of the authorities to investigate the murder of Sr **Stang** and bring to justice its perpetrators. She also welcomes the establishment of a Working

Group and hopes that the suggestions of action to be taken by federal and state officials in order to fight the violation of human rights will be adequate to ensure the protection of human rights defenders in the state of Para and throughout Brazil.

68. She also notes that in December 2005, at the invitation of the Government, she conducted an official visit to Brazil. She thanks the Government for its commendable transparency and the very good collaboration in preparation and conduct of the mission. She draws attention to her preliminary report made following this visit.

## **Cambodia**

### **Communications received**

69. On 1 June 2005, the Special Representative sent a letter of allegation concerning Mr. **Chea Vichea**, a human rights defender and President of the Free Trade Union Workers of the Kingdom of Cambodia. The alleged assassination of Mr. Vichea on 22 January 2004 was subject to a letter of allegation on 27 January 2004. According to the information received, more than a year after the alleged assassination of Mr. Vichea, the perpetrators have not been brought to justice. On 27 and 28 January 2004, two men were reportedly arrested and accused of the murder of Mr. Vichea. These men allegedly stated that the police used force to make them confess the crime. It was reported that, on 26 January 2004, the police had released a sketch with similarities to the two men arrested, and that eyewitnesses to the assassination denied that the sketch resembled the two men they had seen. It was indicated by information received by the Special Representative that the accused had alibis at the time of the assassination, and that in particular one them was with his girlfriend and her family in Prey Veng province, outside Phnom Penh. Reportedly, the police arrested the girlfriend and her mother and threatened them in an attempt to pressure them to withdraw the alibi. They were allegedly released the next morning. The information received indicated that, on 19 March 2004, the first investigating judge from the Phnom Penh Municipal Court ordered that the case be dismissed due to lack of evidence. It is alleged that his order contradicted instructions from a senior Government official to forward the case to trial. Reportedly, on 20 March 2004, the prosecutor appealed against the decision and the case was referred to the Appeals Court. On 26 March 2004, the Supreme Court of Magistracy allegedly issued a press release informing that the first investigating judge had been reassigned due to a number of mistakes made in the application of criminal law and that the criticism was not related to the Chea Vichea case. When the Court of Appeal heard the case on 1 July 2004, both defendants reportedly claimed their innocence. The information received indicated that the Court of Appeal decided to reverse the dismissal of charges and sent the case back to the Phnom Penh Municipal Court. The Court of Appeal allegedly denied the defendants release on bail and has later, including on 5 January 2005, denied bail applications. Deep concern was expressed that the reports of ill-treatment of the two suspects in the Chea Vichea case, intimidation of witnesses, and reassignment of the first investigating judge from the Phnom Penh Municipal Court might have represented attempts to prevent a thorough, independent and impartial investigation and judicial process to bring the assassins of Chea Vichea to justice. This concern was further heightened in the context of reports of harassment, assaults, intimidation and death threats of trade union activists in the period after the assassination of Chea Vichea, and in particular the alleged killing on 7 May 2004 of Ros Sovannareth, a steering committee member of the Free Trade Union of Workers and President of the Trinunnal Komara garment factory union.

70. On 28 October 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning Mr. **Rong Chhun**, President of the Cambodia Independent Teachers' Association (CITA). According to the information received, on 15 October 2005, Mr. Rong Chhun was arrested at Poi Pet Checkpoint, Banteay Meanchey Province at 3 p.m., brought to Phnom Penh Municipal Court and charged with defamation and "incitement of others to commit a criminal offence without the offence being committed" following a statement he made criticizing the Government's border policy. The charges against him were allegedly based on a statement made by him and three others on 11 October 2005, pertaining to the signature of a border agreement concluded between the Prime Minister and Vietnam's Prime Minister during the Prime Minister's visit to Vietnam from 10 to 12 October 2005. Defamation under article 63 of the Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period—commonly known as the UNTAC Law—carries a maximum one-year prison sentence, while incitement to commit an offence under article 60 could lead to up to five years of imprisonment. Mr. Chhun was detained in Prey Sor Prison and it was reported that Mr. Chhun had been harassed in the past because of his trade union activities. It was also alleged that arrest warrants were issued on the same grounds against Mr. **Chea Mony**, President of the Free Trade Union of the Workers of the Kingdom of Cambodia (FTUWKC), Mr. **Man Nath**, President of the Cambodian Independent Civil Servant Association, and Mr. **Ear Channa**, Deputy Secretary General of the Student Movement for Democracy. These three people were reportedly in hiding. Mr. Rong Chhun, Mr. Chea Mony, Mr. Man Nath, and Mr. Ear Channa, are all members of the "Cambodia Watchdog Council" that monitors Government activities. Concern was expressed that that arrest of Mr. Rong Chhun was an attempt to silence his opinions, in particular those that are critical of the Government's border policy.

### Observations

71. The Special Representative deeply regrets that the Government of Cambodia has not responded to her communications of 2005.

## Cameroon

### Communications envoyées

72. Le 7 septembre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant M. **Alhadji Mey Ali**, Président de l'association des droits de l'homme Organe de la société civile (OS\_Civile), et **Alhadji Mamat**. Selon les informations reçues, le 29 juillet 2005, M. Alhadji Mey Ali aurait saisi le commandant de la légion de gendarmerie de la province de l'extrême nord à Maroua afin de dénoncer les «actes de torture et traitements cruels» qu'aurait commis le maréchal des logis (un gendarme dont le nom est connu de la Représentante spéciale du Secrétaire général) sur les habitants du quartier Sao à Afadé. Il est rapporté que, le 25 juillet 2005, le collectif des habitants du quartier Sao à Afadé, Kousseri, au nord-est du Cameroun, aurait adressé une plainte au commandant de compagnie de gendarmerie de Makary contre le maréchal des logis pour torture et complicité de torture sur les habitants du quartier. Il est rapporté que, le 11 août 2005, semble-t-il à la demande

du même maréchal des logis, M. Alhadji Mey Ali et M. Alhadji Mamat, le chef de quartier ayant déposé la plainte mentionnée ci-dessus, auraient été cités à comparaître devant le tribunal de première instance de Kousseri le 25 août 2005, pour «dénonciation calomnieuse et diffamation», selon les articles 74 (responsabilité pénale), 304 (dénonciation calomnieuse) et 305 (diffamation) du Code pénal camerounais. D'après les informations qui nous sont parvenues, MM. Mey Ali et Mamat pourraient être condamnés à une peine de prison de six mois à cinq ans, et à une amende de 10 000 à 1 million de francs pour l'accusation de dénonciation calomnieuse, et à une peine de prison de six jours à six mois et à une amende de 5 000 à 2 million de francs, ou à l'une de ces deux peines seulement, pour l'accusation de diffamation. Le 25 août 2005, leur procès a été renvoyé au 1<sup>er</sup> septembre 2005. Selon les informations reçues, l'audience qui devait se tenir le 1<sup>er</sup> septembre 2005 n'aurait pas figuré au rôle et le président du tribunal aurait informé les membres du Mouvement pour la défense des droits de l'homme et des libertés (MDDHL) que l'audience serait prévue le 22 septembre 2005.

### Observations

73. The Special Representative regrets that at the time of the report no responses had been received to her communication from the Government of Cameroon

## Chad

### Communications envoyées

74. Le 6 juillet 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant la situation de plusieurs défenseurs des droits de l'homme dans la localité de Krim Krim, dans la région du Logone occidental, en particulier **Kagmbaye Mapideh**, Président du Collectif des associations des droits de l'homme (ADH), et M. **Gedeon Nekarmbaye**, responsable local de l'Association tchadienne pour la non-violence (ATNV) de Krim Krim. Selon les informations reçues, M. Kagmbaye Mapideh et M. Gedeon Nekarmbaye seraient l'objet de harcèlements répétés de la part du chef de canton de leur localité en relation avec leur dénonciation du prélèvement illégal par ce dernier de 10 % des compensations individuelles versées aux populations par les compagnies pétrolières. En particulier, le 3 février 2005, M. Gedeon Nekarmbaye aurait été détenu pendant 48 heures par la gendarmerie sur ordre du chef de canton et libéré après avoir payé une forte amende. Le 11 mars 2005, MM. Kagmbaye Mapideh et Gedeon Nekarmbaye auraient reçu une lettre de menace de la part du chef de canton dans laquelle ce dernier affirmait qu'il n'avait pas de leçon à recevoir de l'ADH et qu'il avait droit de vie et de mort sur ses administrés. Le 14 mars 2005, M. Nekarmbaye, ainsi que M. Gabriel Banyo, M. Denis Diongoussou et M. Christian Djeratar, trois autres militants de l'ADH, auraient été arrêtés par la gendarmerie de Krim Krim sur instructions du chef de canton puis libérés le 15 mars 2005. Le 4 juin 2005, M. Patrice Mbaihoudou, Président des Unions locales d'ATNV et Vice-Président de la section d'ATNV à Krim Krim, aurait été passé à tabac au centre de paiement des compensations individuelles par le chef de canton pour s'être opposé au prélèvement de 10 %. M. Mbaihoudou aurait déposé plainte auprès de la sous-préfecture de Krim Krim. L'affaire, qui aurait dû être jugée le 23 juin 2005, aurait été reportée au 11 juillet 2005 en raison de l'absence du sous-préfet, représentant du juge de paix de Krim Krim. Des craintes ont été exprimées que ce harcèlement

ne vise à entraver le travail de défense des droits de l'homme effectué par l'ADH et l'ATNV et leurs membres.

### **Observations**

75. The Special Representative regrets that at the time of the finalizing of this report no response had been received to her communication by the Government of Chad.

## **Chile**

### **Comunicaciones enviadas**

76. El 2 de septiembre 2005, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas envió un llamamiento urgente en relación con la senora **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 y de un llamamiento urgente enviado el 22 de octubre 2004 por el Relator Especial sobre la tortura, 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. Según las nuevas informaciones recibidas, el 22 de julio 2005, a las 18:00 aproximadamente, cuando Juana Calfunao Paillalef estaba en su casa con su marido y una hija de siete años, habrían oído un grito a unos 150 metros del domicilio. De acuerdo con las informaciones recibidas, habría salido de la casa con su marido para averiguar de donde venía el grito. Poco después habrían oído a la hija gritando desde la casa. Habrían vuelto a la casa y la habrían visto en llamas. Unos miembros de la comunidad habrían logrado rescatar a la hija de la casa. Juana Calfunao Paillalef y su familia habrían dado declaraciones al fiscal local y a criminalistas de carabineros e investigaciones. Según había sido informada la Representante Especial, no se habría registrado ningún progreso en la investigación sobre este caso. Se expresaron temores que este incendio fuera otro intento de asustar a Juana Paillalef y su familia para que abandonara su trabajo en defensa de los derechos de su comunidad indígena. Además, se expresaron temores por la seguridad y la vida de Juana Paillalef y sus familiares, especialmente a la luz de las alegaciones según las cuales su casa ya habría sido quemada en junio de 2004 y se encontraba en proceso de reedificación cuando ocurrieron estos hechos.

### **Comunicaciones recibidas**

77. Por carta con fecha 6 octubre de 2005, la Misión Permanente de Chile respondió a la comunicación en relación con la señora **Juana Calfunao Paillalef** de 2 septiembre 2005. El gobierno informo que con respecto a las comunicaciones in relación con el incendio en junio de 2004, los hechos descritos dieron lugar a la formación de la causa RUC 228316-1 en la Fiscalía Local de Temuco, cargo del Fiscal Cristian Crisosto. El gobierno señalo que existían indicios de

que se trataría de un incendio natural y no provocado. El gobierno informo que posteriormente y como consecuencia del incendio, la Municipalidad de Cunco le entrego ayuda asistencial en alimentos, colchonetas y frazadas y le construyo dos mediaguas provisorias en el mes del julio del mismo ano. Con respecto al incendio de su casa el 22 de julio 2005, el gobierno informo que en su denuncia realizada en Carabineros de Chile y en la Fiscalia Local, no menciono personas. Solo señaló en un sentido genérico, atribuyéndoles el hecho a vecinos latifundistas. La Policía de Investigaciones de Chile estaba investigando el Casio a contar del 28 de julio de 2004 se estaban realizando rondas periódicas a la comunidad donde reside Juana Calfunao Paillalef. El gobierno informo que era necesario reiterar la voluntad del Gobierno de avanzar en la configuración de esta nueva relación con los pueblos originarios de Chile, a partir de la creación de la Comisión de Verdad Histórica y Nuevo Trato el ano 2001. El gobierno informo que la Subsecretaria de Planificacion y Cooperacion, encargada del coordinacion ejecutiva de las politicas indigenas del Gobierno presento el día 31 de agosto de 2005 el proyecto de ley que crea el Espacio Marino Costero, que tiene por objeto el reconocimiento del uso ancenstral que las comunidades indigenas han relizado del borde costero reglamentado su proteccion.

### **Observations**

78. The Special Representative thanks the Government of Chile for its reply to the communication of 2 September 2005. While she acknowledges the position of the Government and notes that investigative measures have been taken, she remains concerned about the situation of **Juana Calfunao Paillalef** and notes that Juana Calfunao Paillalef and her family have been the victims of a continued campaign of persecution. She particularly regrets that adequate measures have not yet been taken to protect Juana Calfunao Paillalef, her family and her community. The Special Representative also notes that Juana Calfunao Paillalef was the subject of further concerns expressed in follow-up urgent appeals on 29 December 2005 and on 5 January 2006. The Special Representative remains concerned about the safety of human rights defenders in Chile, particularly those working on indigenous issues.

### **China (People's Republic of)**

#### **Communications sent**

79. On 10 January 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr. **Yang Tianshui**, aged 43, a freelance writer. He spent ten years in prison for "counter-revolutionary activities" from 1990 to 2000 after publicly voicing his opinion on the 1989 events in Tiananmen Square. He was again detained from 27 May to 11 June 2004, reportedly on account of articles marking the 15th anniversary of the 1989 events in Tiananmen Square. He had recently written articles about torture of human rights activists and official protection of some criminals. According to the information received, police of the People's Republic of China detained Mr. Yang Tianshui in Hangzhou, Zhejiang Province, on 24 December 2004. On 31 December 2004, an arrest warrant was issued by the Baixia Branch of the Public Security Bureau, Nanjing City, stating that Yang had been transferred to Nanjing, 200km north of Hangzhou. The Public Security Bureau accused him of "incitement to subversion of state power". According to the information received, except for this warrant, his family had no news of him.

80. On 20 January 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation concerning three members of the unofficial Protestant Christian church: Mr. **Liu Fenggang**, formerly a worker in a medical equipment factory, Mr. **Xu Yonghai**, a doctor, and Mr. **Zhang Shengqi**, a computer technician. Their cases had been previously mentioned in a communication to the Government of China by the Special Rapporteur on Freedom of Religion or Belief dated 14 November 2004. The case of Mr. Liu Fenggang also constituted the subject matter of a communication to the Government of China, dated 6 October 2004, by the Working Group on Arbitrary Detention acting in its procedure involving the investigation of individual cases. These communications had not been responded. According to the information received, Mr. Fenggang was arrested on 13 October 2003, while Mr. Yonghai and Mr. Shengqi were arrested in November 2003. They were reportedly charged with “providing state secrets to foreign organisations” pursuant to Article 111 of the Criminal Law. These charges reportedly related to reports Mr. Fenggang had written, documenting the destruction by the authorities of more than a dozen house churches and the arrest of at least 300 Christians, some of whom were allegedly ill-treated, in Zhejiang province in July 2003. Mr. Yonghai sent these reports to a US-based Chinese-language magazine, *Christian Life Quarterly*, and Mr. Shengqi e-mailed the reports to foreign addressees. Allegedly, on 16 March 2004, these men were tried in secret by the Hangzhou Intermediate People’s Court in Zhejiang Province, and, on 6 August 2004, the court sentenced Mr. Fenggang, Mr. Yonghai and Mr. Shengqi to three years, two years and one year terms of imprisonment respectively. Since the period of detention before the date of the judgment is credited towards the sentence imposed, Mr. Shengqi should have completed his sentence by the time of the communication. It was not, however, known whether he had been released.

81. On 2 February 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal regarding Mr. **Hada**, aged 49. According to the allegations received, Mr. Hada, who was detained in Chifeng prison, Inner Mongolia Autonomous Region, was subjected to disciplinary punishment on the ground that he was “resisting reform”. The punishments included being held in solitary confinement and being handcuffed overnight to a metal board. He was prohibited from talking to other inmates, allowed only limited contact with his family and denied proper medical care. He was reportedly suffering from a serious stomach ulcer, coronary heart disease, rheumatoid arthritis, and experiencing psychological problems. In 1992, Mr. Hada was one of the founders of the Southern Mongolian Democratic Alliance (SMDA). In an underground journal and a book he published, Mr. Hada alleged that the Government had committed systematic violations of the human rights of the Mongols of Inner Mongolia, including mass killings, deprivation of social and political rights, and suppression of Mongol culture. In 1995, Mr. Hada and the SMDA organized several peaceful demonstrations in Hohhot, to demand that the Government respect the rights of the Mongols. Mr. Hada was arrested in December 1995 and has been in detention since then. On 6 December 1996, he was tried behind closed doors, convicted on charges of “conspiring to overthrow the Government” and “espionage”, and was convicted to 15 years’ imprisonment. In view of the alleged ill-treatment, concern was expressed that he may be at risk of torture or other forms of ill-treatment. Concern was expressed that this treatment may have been in reprisal for

his publications and other activities in the defence of the rights of the Mongols of Inner Mongolia.

82. On 22 February 2005, the Special Representative, together with 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 promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr. **Zhang Lin**, dissident writer and pro-democracy advocate. According to the information received, Mr. Zhang Lin was arrested on 29 January 2005 by the National Security Police from the Public Security Bureau of Bangbu City, Anhui Province for “disturbing social order”. He was placed in detention for a period of 15 days. His house was then searched by police on 6 February 2005, and on 12 February 2005, shortly before he was due to be released, he was charged with “suspicion of endangering national security” and placed in detention for an additional 30 days. Mr. Zhang Lin is currently being detained incommunicado at the No. 1 Detention Centre of Bangbu City, Anhui province. His lawyer had not had access to him and was in the process of requesting a visitors’ permit. The Notice of the Administrative Detention issued by the Public Security Bureau of Bangbu City stated that Mr. Zhang Lin was being detained because of allegations that he had written “radical” articles that were posted on the internet. Concern was expressed that Mr. Zhang Lin was arrested in connection with the articles he wrote.

83. On 18 March 2005, the Special Representative sent an urgent appeal concerning Mr. **Abdulghani Memetemin**, a journalist who provided information to the East Turkestan Information Centre (ETIC), a non-Governmental organisation run by Uighurs in exile in Germany which publicises reports on the human rights situation of Uighurs in China. Mr. Memetemin reportedly sent information on farmers in the Xinjiang Uighur Autonomous Region (XUAR) who were allegedly forced to work without pay on Government projects, as well as information on the alleged confiscation and burning of Uighur history books, restrictions on Islamic religious practices, and difficulties faced by the unemployed. According to the reports received, on 24 June 2003 the Kashgar Intermediate People’s Court sentenced Mr. Memetemin to nine years imprisonment on charges of “providing state secrets for an organisation outside the country”, under Article 111 of the Chinese Criminal Law. Reportedly, the charges were motivated by Mr. Memetemin’s reported communication of the above-mentioned information to the ETIC, as well as his reported translation of documents on human rights violations in the XUAR into Chinese and efforts to encourage others to provide information to the ETIC. The information received indicated that he had no access to a lawyer after his arrest on 26 July 2002 in Kashgar in XUAR and had no legal representation at his trial. Mr. Memetemin was reported to be detained in a prison in Kashgar run by the Department of State Security, and he was due for release on 25 July 2011. The information received did not confirm that his family was allowed to visit him, and his state of health was unknown. Concern was expressed that the alleged imprisonment and verdict of Mr. Memetemin may be in retaliation for his human rights defence activities and in particular for providing information to the ETIC on reported human rights violation against members of the ethnic Uighur community in XUAR.

84. On 5 April 2005, the Special Representative, together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding Mr. **Guozhu Ye**, a housing rights activist who, on 24 August

2004, allegedly applied for legal permission to hold a 10,000 people protest march against forced evictions in Beijing in mid-September 2004. According to the information received, on 27 August 2004, the police arrested Mr. Ye and searched his house. He was reportedly charged with “disturbing social order” in connection with the application to hold the protest march. Allegedly, on 18 December 2004, the Beijing Intermediate People’s Court sentenced Mr. Ye to four years’ imprisonment because his actions “seriously interfered with the work and order of state organs and public order”. The information received indicated that he was detained at an unknown location. Concern was expressed that the alleged arrest, detention and conviction of Mr. Guozhu Ye might have been directly linked with his application to hold a protest march against forced evictions, and therefore represented attempts to prevent his human rights activities. This concern was heightened in light of reports on arrests, detention and ill-treatment of, as well as legal proceedings against, numerous individuals who have travelled to Beijing to file petitions about forced evictions and inadequate compensation, which already was subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 17 March 2005.

85. On 1 July 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning family members and business associates of Ms. **Rebiya Kadeer**, a human rights defender for the minority Uighur community in the northwest region of Xinjiang, in particular; her son; **Ablikim Abdiriyim**; and two employees of her company, Kadeer Trade Centre, **Ruzi Mamat** and **Aysham Kerim**. According to the information received, in August 1999, Rebiya Kadeer was detained in Urumqi on her way to meet with a United States Congressional Research delegation which was then visiting China. In March 2000, she was sentenced to eight years’ imprisonment on charges of “providing secret information to foreigners”. On 17 March 2005, she was released on medical parole after serving five and a half years of this sentence and then joined her husband in exile in the United States. According to new information received, on 11 May 2005, Ruzi Mamat and Aysham Kerim, respectively the company secretary and company director, were detained by police. It is reported that Aysham Kerim was ill-treated by police during her arrest. Both were allegedly taken to the Fifth Branch of the Public Security Bureau in Urumqi. On 13 May 2005, police reportedly took Ruzi Mamat and Aysham Kerim back to the Kadeer Trade Centre, and conducted a search of the office, under the pretext of a loan the Kadeer Trading Center had recently received from the state-owned Bank of China. During the raid it is reported that 100 security personnel were present both inside and outside the office and a large quantity of documents were removed from the office. Allegedly, at the time of the raid, police also tried to arrest Ablikim Abdiriyim, but he managed to escape and his current whereabouts are unknown. After the raid, Ruzi Mamat and Aysham Kerim were once again taken into police custody. Concern was expressed that the harassment and intimidation of Ruzi Mamat, Aysham Kerim and Ablikim Abdiriyim may be in retaliation for Ms. Kadeer’s activities in defending the human rights of the minority Uighur community. These concerns are heightened by allegations that, three days before her release on 17 March 2005, Rebiya Kadeer was threatened by prison guards that her business and children would be targeted if she associated with Uighurs abroad or revealed sensitive information about the Xingjiang. Nevertheless, since her release, Ms. Kadeer has continued her work in defense of the human rights of the Uighur community, and has talked openly about her experiences in prison.

86. On 1 July 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning concerning Mr. **Zhu Jiuhu**, a lawyer from the Jietong Law Office of Beijing, aged 39. According to the information received, at the time of his arrest Mr. Zhu was staying in Yulin City, Jingbian County, Shaanxi Province, where he was serving as lead counsel for the plaintiffs in the Shaanxi Petroleum Case, to date, the largest administrative lawsuit filed in the Peoples' Republic of China. On 26 May 2005, approximately at 1.00 a.m., 17 officers of the Jingbian County Police arrived at the Shoufin Hotel, Yulin City. Seven of them entered Mr. Zhu's room and detained him, while the other 10 waited outside. They did not show Mr. Zhu an arrest warrant or other document justifying his detention. Mr. Zhu's wife received a warrant through the post on 6 June 2005. The warrant, issued on 27 May 2005, charges Mr. Zhu with "involvement in illegal gathering, [and] disruption of social order". From that time Mr. Zhu was being held by the Jingbian County Police at the Jingbian County Police Detention Center. On 27 May 2005 he was placed under criminal detention. On 22 June 2005 a declaration of formal arrest was issued. On two occasions, 3 June 2005 and 13 June 2005, lawyers attempted to see Mr. Zhu but were not allowed admittance. The reason given was that Zhu's case is "a matter of national security". Mr. Zhu's wife has been denied the right to visit him, too. Concern was expressed that Mr. Zhu may have been at risk of torture or other forms of ill-treatment. Further concern was expressed that the arrest and detention are in response to Mr. Zhu's advocacy work as these events took place just as the Shaanxi Petroleum Case was about to go to trial.

87. On 19 September 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning Mr. **Chen Guangcheng**, aged 34, a blind peasant from Linyi, Shandong Province. Chen Guangchen was leading a legal campaign against the use of forced sterilization and abortion in the city of Linyi. According to the information received, on the afternoon of 6 September 2005, several men in plain clothes grabbed Chen Guangcheng as he left an apartment building in Beijing, dragged him across a parking lot and pushed into an unmarked car with tinted windows. The men did not identify themselves and Chen Guangcheng attempted to resist. As he shouted for help and could be heard screaming in pain from inside the car, a small group of persons surrounded the vehicle and prevented it from driving away. Residents of the area called Beijing police. Two uniformed officers arrived, consulted with the men who had seized Chen Guangcheng, and then cleared a way for the car to drive away. The Beijing police officers informed the bystanders that the men who seized Chen Guangcheng were police from Shandong province. A spokesman for the Shandong public security bureau stated that he did not have any information about Chen Guangcheng's detention. The Shandong province police took Chen Guangcheng back to Linyi. There he was confined to his farmhouse by a group of about 50 men acting on behalf of the Yinan county and Linyi city Governments. Chen Guangcheng was reportedly preparing a class-action lawsuit to challenge the population-control policies of the authorities of Linyi. In March 2005, the Linyi city Government began requiring parents with two children to be sterilized and forcing women pregnant with a third child to have abortions. Officials also detained family members of persons who fled to avoid sterilization or abortion, beating them and holding them hostage until their relatives return and submit to the operations.

Concern was expressed that the arrest of Chen Guangcheng and his confinement in his home might have been aimed at preventing him from meeting lawyers, Government officials, victims and witnesses, in connection with his campaign against the forced abortion and sterilization program.

88. On 21 September 2005, the Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal regarding Reverend **Philip Jun Buck**, a citizen of the United States of America of Korean origin. Reverend Buck is a pastor engaged in providing food, shelter and other forms of humanitarian assistance to North Korean refugees in the Jilin Province of the People's Republic of China. According to the information received, Reverend Buck was arrested on 9 May 2005 together with three other pastors, who have since then been released. He was being held in Yanji, Jilin Province. He was under investigation by the Jilin Provincial Public Security Bureau (PSB) on suspicion of assisting North Koreans to illegally transit into the People's Republic of China. Despite the fact that he had been detained for over 4 months, he was still "under investigation" and had not been formally charged with any crime. Reverend Buck is 67 years old and suffers from serious health problems. He was hospitalized a few weeks ago because of his fragile physical condition. Concern was expressed that the detention of Reverend Buck might have been intended to prevent him from continuing his activity in favour of the rights of refugees from Democratic People's Republic of Korea. Because of his frail state of health, further concern was expressed that continued detention might result in irremediable damage to his health.

89. On 31 October 2005, the Special Representative, together with the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences sent a letter of allegation concerning **Chen Guangcheng**, a self-educated lawyer who, since 7th September 2005 had been under a form of house arrest in the village of Dongshigu, eastern province of Shandong. Chen Guangcheng was also the subject of a communication sent to your Excellency's Government on 19th September 2005 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders. According to the information received, on 24th October 2004, at approximately 1pm, Chen Guangcheng was kicked and beaten by a group of eight or nine people when he tried to leave his home. The group was reportedly led by two local officials, Zhao Feng and Li Xian'gan, who shouted during the beating: "Hit him hard! Break his legs! So he can include this in his lawsuit too." Chen Guangcheng, who is blind, reportedly fell to the ground five or six times during the attack. His family was eventually able to drag him inside, but he was left bleeding from the forehead and with pain around his left eye. Allegedly, he was unable to bend his fingers after the assault. According to reports, Chen Guangcheng's house was being guarded in shift rotation by a group of around 20 people. When members of his family asked those guarding the house if he could go to hospital their request was denied. Before his detention, Cheng Guangcheng had been assisting villagers to take legal action against the Linyi city authorities in Shandong, who they allege had been breaking the law by conducting a campaign of forced abortions and sterilizations of local women in pursuit of birth quotas. The case was due to be heard on 10 October, but was postponed. According to reports, several of the families involved in the case have withdrawn following threats and harassment by the authorities. Chen Guangli was briefly detained earlier in

October along with another villager, after giving interviews about Chen Guangcheng's situation to foreign reporters.

90. On 25 November 2005, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning Mr. **Gao Zhisheng**, a prominent human rights lawyer and Director of Shengzhi Law Firm in Beijing. According to the allegations, in the days before the urgent appeal, Gao Zhisheng and his family had been subjected to continual surveillance and threats by the secret services. In one incident on 20 November 2005, a secret service car drove into Gao Zhisheng's car before a meeting that he attended with the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. According to the information received, Mr. Zhisheng and his family had previously been chased on several occasions by the secret police cars, which struck their car several times. When Mr. Zhisheng challenged the behaviour of the secret service agents, they made threats against his life. The Beijing Bureau of Justice is also considering suspending the activities of Shengzhi Law Firm for a period of one year. Concern was expressed that the decision was linked to Gao Zhisheng's professional activities on a number of high profile human rights cases.

91. On 29 November 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr. **Zhao Xin**, director of the Empowerment and Rights Institute in Beijing. According to the information received, on 17 November 2005, Zhao Xin was severely beaten by seven men in Maoxin, Sichuan province. The men, reportedly armed with steel pipes and knives, confronted Zhao Xin as he left a restaurant with seven of his friends. Zhao Xin was the only target of the attack; his friends were intimidated and forcibly prevented from intervening. Following the attack Zhao Xin was taken to a nearby hospital, where he received 11 stitches for a wound to his head; he also suffered a shattered knee cap. It was reported that police refused to investigate the attack and that Zhao Xin would not be offered any protection when he left the hospital in approximately two months. Serious concern was expressed that this attack constituted an attempt to prevent Zhao Xin from carrying out his human rights work. Zhao Xin was a former chief organiser of the banned opposition group the China Democracy Party and a student leader during the Tiananmen democratic movement in 1989. He had written articles, many under the pseudonym Zhao Zixian, advocating human rights and democracy in China. Further concern was expressed over reports that Zhao Xin was instructed by officers from the Beijing Public Security Bureau (PSB) to leave Beijing during visits to China by the US President, George W. Bush, in mid-November, and the United Nations Special Rapporteur on Torture, Manfred Nowak, at the end of November. Zhao Xin reported that from the time he arrived in Maoxin, and despite assurances from the PSB that he would be safe there, two cars, a black Audi and a VW Passat, had been following him. It was believed that the attack on Zhao Xin might have been connected to his involvement in a recent effort to re-run an election in Taishi Village, Guangdong Province.

### **Communications received**

92. On 16 June 2005 the Government of China replied to the communication of 10 January 2005. At the time this report was finalised, this reply was still in the process of being translated.

93. On 16 June 2005 the Government of China replied to the communication of 20 January 2005. At the time this report was finalised, this reply was still in the process of being translated.

94. On 12 May 2005 the Government of China replied to the communication of 2 February 2005. At the time this report was finalized, this reply was still in the process of being translated.

95. On 8 July 2005 the Government of China replied to the communication of 22 February 2005. At the time this report was finalized, this reply was still in the process of being translated.

96. On 8 July 2005 the Government of China replied to the communication of 18 March 2005. At the time this report was finalized, this reply was still in the process of being translated.

97. On 17 October 2005 the Government of China replied to the communication of 3 June 2005. At the time this report was finalized, this reply was still in the process of being translated.

98. On 12 December 2005 the Government of China replied to the communication of 19 September 2005. At the time this report was finalized, this reply was still in the process of being translated

**Responses received to communications sent in previous years, including responses that were not translated at the time of the finalisation of last year's report**

99. In a letter dated 5 July 2004 the the Government replied to the communication of 23 April 2004 concerning **Wang Jimbo**. The Government stated that **Wang Jimbo** on 4 December 2001 was sentenced to four years' imprisonment for the crime of inciting subversion of the political authority of the state. The Government stated that on 19 November 2003 **Wang Jimbo** was sentenced to 14 days solitary confinement for having smashed glass and disrupted the normal prison routine and that after he had acknowledged his error and undertaken self-criticism in writing the prison authorities had released him from solitary confinement one day early. The Government denied that **Wang Jimbo** had not been allowed to make telephone calls and that he had gone on hunger strike and that his health was excellent at the time of the reply. The Government stated that China's Constitution and laws clearly state that citizens have freedom of speech and opinion. Article 35 of the Constitution reads, "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration." In exercising their rights and freedoms, however, citizens must honour the associated legal obligations. The Universal Declaration of Human Rights, while acknowledging citizens' various rights, also clearly states that, in exercising their rights and freedoms, people are subject to the limits laid down by law. In the case of **Wang Jimbo** the Government stated that he had been convicted because his actions harmed the political authority of the State. The Government stated that China had consistently sought to prohibit torture and that the Chinese constitution contains clear provisions protecting the right of citizens to personal security and that Chinese legislation expressly prohibited corporal punishment or ill-treatment and that while **Wang Jimbo** was serving his sentence, his legitimate rights were being thoroughly guaranteed.

100. On 11 November 2004 the Government replied to the communication of 14 July 2004 concerning **Zhang Youren**. The Government stated that since 1997 **Zhang Youren** had tried to meet with the authorities because he was dissatisfied with the compensation that had been

offered to persons who were forced to move to accommodate a Government built reservoir. The Government stated that in 2004 **Zhang Youren** made up stories and spread rumours to slander the State employees involved. The Government stated that on 5 March 2004 the public security authorities in Tangshan, Hebei Province investigated **Zhang Youren** on suspicion of defamation and on 1 July 2004, he was placed under house arrest, in accordance with article 52 of the Code of Criminal Procedure of the People's Republic of China. The Government denied that his wife, Wang Yushu, had been beaten by police officers and that **Zhang Youren's** rights were fully protected and there was no arbitrary detention. The Government stated that China's Constitution and laws clearly state that citizens have freedom of speech and opinion. Article 35 of the Constitution reads, "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration." In exercising their rights and freedoms, however, citizens must honour the associated legal obligations. The Universal Declaration of Human Rights, while acknowledging citizens' various rights, also clearly states that, in exercising their rights and freedoms, people are subject to the limits laid down by law and that the measures taken by the authorities against **Zhang Youren** conformed with the relevant legislative provisions.

101. On 11 November 2004 the Government replied to the communication of 12 August 2004. The Government stated that **Wang Bingzhang** was sentenced on 10 February 2003 to life imprisonment and deprivation of political rights for life for the crimes of espionage and leading a terrorist organization and that he was serving his sentence in the Beijing prison in Guangdong province. The Government stated that **Wang Bingzhang** had a medical exam on entering the prison and that he was diagnosed with varicose veins, sudden bradycardia and allergic rhinitis and that at the beginning of 2004 he suffered a minor stroke. The Government stated that with treatment provided by the prison authorities his condition improved somewhat. The Government denied that **Wang Bingzhang** had been denied family visits. The Government stated that China had consistently sought to prohibit torture and that the Chinese constitution contains clear provisions protecting the right of citizens to personal security and that Chinese legislation expressly prohibited corporal punishment or ill-treatment and that while **Wang Bingzhang** was serving his sentence, his rights were fully guaranteed and that he received meticulous care from the prison authorities who treated his medical condition.

102. On 22 February 2005 the Government replied to the communication of 1 December 2004 concerning **Zheng Enchong**, from Shanghai, formerly employed at the Minjian Legal Services Bureau in Shanghai (he did not pass his end-of-year lawyers' examination). The Government stated that Zheng Enchong was taken into custody on 6 June 2003 and arrested on 18 June 2003 on suspicion of illegally providing State secrets to entities outside China. On 15 August 2003, the second division of the Shanghai Municipal People's Procuratorate brought a prosecution against Zheng in Shanghai No 2 Intermediate People's Court on charges of supplying State secrets to entities outside China. Because the case involved State secrets, the court heard the case behind closed doors on 26 August, pursuant to article 152 of the Code of Criminal Procedure. The court established that, in May 2003, Zheng had faxed State secret material to an organisation outside the country. In late May he had also faxed and telexed abroad a Shanghai Public Security report about the public security organs' response to an emerging situation. The court found him in breach of article 111 of the Penal Code and determined that his conduct amounted to the offence of illegally supplying State secrets to entities outside China. It sentenced him, on 28 October 2003, to three years' imprisonment and stripped him of his political rights for one

year. Zheng appealed to the Shanghai Municipal Higher People's Court, which found that the facts established in first instance were clear, the evidence was ample and reliable, the nature of the offence had been correctly identified and the penalty imposed was commensurate with the gravity of the crime. It rejected Zheng's appeal on 18 December 2003 and upheld the lower court's judgement. For the hearings both in first instance and on appeal, the family of the accused, Zheng Enchong, appointed Zhang Sizhi, an advocate from the Wu, Luan, Zhao and Yan Legal Office in Beijing, and Guo Guoting, an advocate from the Tianyi Legal Bureau in Shanghai, to conduct Zheng's defence. The Government stated that both advocates presented ample views for the defence at both hearings. Since being sent to prison, the Government stated that Zheng had never been harshly treated nor confined in a high-security area. His cell has never housed more than two or three inmates at any one time. According to the Government, the director of the Shanghai Judicial Bureau, Mr. Miao Xiaobao, had never spoken to Zheng. The Government stated that China's Constitution and laws clearly state that citizens have freedom of speech and opinion. Article 35 of the Constitution reads, "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration." In exercising their rights and freedoms, however, citizens must honour the associated legal obligations. The Universal Declaration of Human Rights, while acknowledging citizens' various rights, also clearly states that, in exercising their rights and freedoms, people are subject to the limits laid down by law. The Government stated that the present case related to the criminal communication of State secrets to entities outside China: the Government stated all coercive action taken by the Chinese law-enforcement authorities against Zheng was based on his criminal conduct and was consistent with Chinese law and the relevant requirements of international human rights agreements. Chinese law protects criminals' lawful rights and interests. Under Chinese law, the people's courts can reduce sentences passed on convicts who show signs of genuine reform or perform meritorious service, but signs of reform do include admitting that one has committed a crime. The Government stated that this was, indeed, a point that the prison authorities must bring to the knowledge of every convict entering prison. Zheng's right to receive visits from his family is guaranteed under the law. Convicted persons' lawyers can, by approval and arrangement with the prison authorities, meet their clients while they are serving sentence. The Government stated that the accusations made in the communication were baseless.

103. On 31 December 2004 the Government replied to the communication of 26 October 2004 concerning **Zhang Bo, Cai Shaoije, Li Weiji and Wang Jie**. The Government stated that on 5 March 2003, Zhang Bo was sentenced to four years' imprisonment for the crime of using a cult to undermine law enforcement, that Wang Jie and Cai Shaoije, were sentenced to seven years' imprisonment for the crime of using a cult to undermine law enforcement and that Wang Jie was sentenced to eight seven years' imprisonment for the crime of using a cult to undermine law enforcement. The Government stated that Falun Gong was not a religion but an antisocial, anti-scientific and anti-human cult that had increasingly shown a tendency towards violence and that the Chinese Government had taken action in respect of Falun Gong precisely to protect the rights and freedoms of the masses. The Government stated that in the process of dealing with the Falun Gong organization every official entity strictly observes the law. In the cases of Zhang Bo, Cai Shaoije, Li Weiji and Wang Jie the Government stated that these sentences were consistent with article 300, paragraph 1 of the Criminal Code of the People's Republic of China. The Government stated that China's Constitution and laws clearly state that citizens have freedom of speech and opinion. Article 35 of the Constitution reads, "Citizens of the People's Republic of

China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.” In exercising their rights and freedoms, however, citizens must honour the associated legal obligations. The Universal Declaration of Human Rights, while acknowledging citizens’ various rights, also clearly states that, in exercising their rights and freedoms, people are subject to the limits laid down by law. The Government stated that these cases had nothing to do freedom of expression or opinion and that the authorities had based their actions solely on the illegal activities of the individuals in question. The Government stated that China had consistently sought to prohibit torture and that the Chinese constitution contains clear provisions protecting the right of citizens to personal security and that Chinese legislation expressly prohibited corporal punishment or ill-treatment. The Government stated that in dealing with the cases mentioned above, China’s judicial authorities had at all times fully respected the legitimate rights of the individuals concerned. With regard to the alleged injuries of Li Weiji the Government stated that these were old injuries and denied that Li Weiji was subjected to ill-treatment or beaten by police.

### **Observations**

104. The Special Representative thanks the Government of China for its replies to the communications of 2005 but regrets that it was not possible for her to make any comment on these cases due to these not being translated in time for the writing of this report.

105. With regard to the responses to communications sent in 2004, the Special Representative takes note of the Government’s position. The Special Representative notes with concern the limitations by domestic law to Chinese defenders’ rights and freedoms under the Universal Declaration of Human Rights and especially their right to freedom of speech, freedom of the press, freedom of association and freedom of assembly. She remains deeply concerned by reports of arbitrary arrests and detention, including incommunicado, torture and ill-treatment of defenders, and in particular those that deal with issues concerning the 1989 events of Tiananmen Square, religious minorities, ethnic minorities such as Uirghurs and Tibetans, and lawyers who take on human rights cases such as forced sterilization and abortions, forced evictions and labour issues.

## **Colombia**

### **Comunicaciones enviadas**

106. El 4 enero 2005, la Representante Especial envió una carta de alegación sobre la supuesta detención del sacerdote Padre **Joakín Mayorga**, Director de Justicia y Paz de la Diócesis de Magangué, Colombia. De acuerdo con la información recibida, el 7 de diciembre de 2004 a las 1600 horas aproximadamente se alega que el Padre Joakín Mayorga habría sido detenido por miembros de la Policía Nacional en el Terminal de Transporte de San Gil, Departamento de Santander y que más tarde ese mismo día le habrían puesto en libertad. No obstante, según los informes recibidos miembros de la policía nacional habrían dicho al Padre Mayorga, mientras le conducían a la Estación de Policía de San Gil, que su detención obedecía a una investigación judicial por su trabajo como sacerdote y defensor de derechos humanos en Magangué. Sin embargo, se alega que una persona identificada como agente Pérez de la Estación de Policía de San Gil, le habría informado tras ser dejado en libertad, que su detención había sido un error de identificación. Según la información recibida, el Padre Joakín Mayorga habría sido detenido de

manera similar en el mes de agosto de 2004 en el municipio de Onzaga, Departamento de Santander. Se expresaron temores que estos actos de hostigamiento en contra del Padre Joaquin Mayorga pudieran estar relacionados con su trabajo de defensor de los derechos humanos. El Padre Joaquin Mayorga enfrentaba un proceso por calumnia e injuria interpuesto por el Batallón Nariño con sede en el municipio del Banco, departamento Magdalena por haber denunciado públicamente la detención arbitraria y posterior asesinato de tres mineros y un menor de edad, hechos presuntamente ocurridos en el corregimiento “El Coco” a finales del mes de enero del presente año.

107. El 11 febrero 2005, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió una carta de alegación en relación a la situación de dos jóvenes indígenas, **Manuel Salvador López Fernández**, **José Eduardo Boscán Epinayu**, y de su madre, **Francia Boscán**, todos ellos miembros de la Comunidad Wayuú. Según las informaciones recibidas, el 2 de febrero de 2005, en el casco urbano de Maicao, tres hombres conocidos bajo los alias de “Zacarías”, “Genito” y “Samir” y que pertenecerían, según se alega, a un grupo paramilitar, habrían irrumpido en la vivienda de Francia Boscán profiriendo amenazas de muerte contra ella y su familia. El 3 de febrero de 2005, a la 1.00 de la madrugada, en el sitio conocido como Santa Cruz, en la vía que conduce a La Majayura, en la jurisdicción de Maicao, José Eduardo Boscán Epinayu y Manuel Salvador López Fernández habrían sido asesinados. Según la fuente, los cuerpos sin vida habrían sido encontrados en el sitio conocido como La Esperanza, cerca de la frontera con Venezuela, y sus ropas habrían llevado distintivos de las “Autodefensas Unidas de Colombia”. Se expresaron temores que estos presuntos asesinatos pudieran estar relacionados con el trabajo que habrían hecho los citados ciudadanos como defensores de derechos humanos y, en particular, por su resistencia pacífica al control y monopolio paramilitar de las actividades económicas y comerciales más rentables de la región fronteriza. En su más reciente visita a La Guajira, las Familias de la Comunidad de los Wayúu habrían puesto en conocimiento del Presidente de la República la estrategia económica por generar recursos. Desde este tiempo, miembros de la Comunidad de los Wayúu habrían sido víctimas de amenazas, ataques físicos y, en el caso presente, la muerte. Se afirmó que permitir que elementos de grupos paramilitares que habrían cometido crímenes como los denunciados participen en el proceso de negociación que se lleva a cabo en Santa Fé de Ralito (Córdoba) con las Autodefensas Unidas de Colombia, sería contribuir a la institucionalización de la impunidad.

108. El 28 febrero 2005, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente sobre la situación de **Gentil Cruz**, presidente de la Asociación Colombiana ASINTERDESA (Asociación Interdisciplinaria de Desarrollo) y representante de la ONG Francesa Tchendukua – Ici et Ailleurs. La mencionada organización desarrolla actividades dirigidas, entre otras, a la promoción de los derechos humanos del pueblo Kogi. De acuerdo con las informaciones recibidas, el 11 de Noviembre 2004, Gentil Cruz habría salido de su casa hacia las seis de la mañana para dirigirse a una cita con el presidente de la Junta Comunal de Orinoco y un ganadero, sin embargo se alega que nunca llegó. Según los informes, esta desaparición tuvo lugar en la carretera llamada “La Troncal del Caribe” que une la ciudad de Santa Marta, capital del departamento del Magdalena, con la ciudad de Riohacha, capital del departamento de la Guajira. La fuente informo que podría tratarse de un secuestro por parte de miembros de las

Autodefensas Unidas de Colombia, aunque no se tiene certeza al respecto. A la luz de estas alegaciones, se expresaron temores que la supuesta desaparición de Gentil Cruz pudiera estar vinculada con su trabajo como defensor de los derechos humanos de los pueblos indígenas. Además, se expresaron temores por la seguridad y la integridad física y psicológica del mismo.

109. El 10 marzo 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, envió una carta de alegación sobre la supuesta muerte de ocho habitantes de la Comunidad de Paz de San José de Apartadó, entre ellos dos defensores de derechos humanos y dirigentes de dicha comunidad, **Luis Eduardo Guerra Guerra** y **Alfonso Bolívar Tuberquia Graciano**. La Representante Especial envió anteriormente dos comunicaciones, el 3 de diciembre de 2003 y el 10 de febrero de 2004, con respecto a la seguridad de los habitantes de la Comunidad de Paz de San José de Apartadó. Según la información recibida, el 21 de febrero de 2005, hacia las once de la mañana, Luis Eduardo Guerra, uno de los dirigentes de la Comunidad de Paz; su compañera Bellanyra Areiza Guzmán; su hijo de 11 años, Deiner Andrés Guerra; y un testigo, habrían sido secuestrados por un grupo de hombres armados que se habrían identificado como miembros del ejército colombiano en Mulatos, una comunidad perteneciente a la Comunidad de Paz de San José de Apartadó. De acuerdo con los informes recibidos, los hombres habrían dicho que se llevaban a los cuatro para matarlos. Se informó que el testigo consiguió escapar. El 22 de febrero, según indicaron los informes, ese mismo testigo habría visitado la granja de Alfonso Bolívar Tuberquia Graciano, otro dirigente de la Comunidad de Paz. Se informó que al llegar, habría encontrado manchas de sangre en la casa y restos humanos fuera de ella, lo cual habría denunciado a las autoridades. El 25 de febrero, funcionarios de la Fiscalía General y la Procuraduría General viajaron a la zona para investigar la situación. Según los informes, habrían hallado cinco cadáveres desmembrados en dos fosas cerca de la granja, que fueron identificados como los de Alfonso Bolívar Tuberquia Graciano; su compañera Sandra Milena Muñoz; sus hijos Santiago Tuberquia Muñoz y Natalia Andrea Tuberquia Muñoz; y otro habitante de la zona, Alejandro Pérez. Además, ese mismo día, se habría hallado otra fosa con los cadáveres de Luis Eduardo Guerra Guerra, Bellanyra Areiza Guzmán y Deiner Andrés Guerra, entre Mulatos y La Resbalosa, otra comunidad perteneciente a la Comunidad de Paz de San José de Apartadó. Se informó que las autoridades desconocieron aún quiénes fueron los responsables. Se expresaron temores que estos homicidios pudieran estar relacionados con el trabajo de los dirigentes de la Comunidad de Paz de San José de Apartadó en defensa de dicha comunidad y que además puedan coincidir con el regreso planeado de varias familias, para el 23 de marzo de 2005, al poblado abandonado de La Esperanza, en San José. Según la información recibida, un intento previo de repoblar La Esperanza habría coincidido con la muerte de varios habitantes de la Comunidad de Paz en abril de 1999.

110. El 11 marzo 2005, la Representante Especial, 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, a envió un appel urgente sur la situación en la que se encontrarían miembros de organizaciones de derechos campesinos e indígenas, en particular, **José Antonio Guerrero García**, gerente de la Federación Nacional de Cooperativas Agrarias (FENACOA) ; **Edilia Mendoza**, dirigente de la Asociación Nacional de Usuarios Campesinos – Unidad y Reconstrucción (ANUC-UR) ; **Everto Díaz**, Presidente de la Federación Nacional Sindical Unitaria Agropecuaria (FENSUAGRO) y **Germán Bedoya**,

Presidente de Coordinador Nacional Agrario (CNA). Según los informes recibidos, el 10 de febrero de 2005, un panfleto con el logotipo del Bloque Capital de las Autodefensas Unidas de Colombia (AUC) habría sido deslizado debajo de la puerta del local de la Federación Nacional de Cooperativas Agrarias (FENACOA). En dicho panfleto se habría amenazado de muerte a José Antonio Guerrero García; Edilia Mendoza; Everto Díaz y Germán Bedoya. De acuerdo con la información recibida, José Antonio Guerrero García habría sido ya amenazado anteriormente, pese a que fue incluido en el programa de protección a líderes políticos y sindicales del Ministerio del Interior. En agosto de 2004, el citado ciudadano habría recibido una llamada telefónica anónima en la sede de FENACOA, tras la cual, le habrían sugerido que abandonara su trabajo. En octubre de 2004, los escoltas de José Antonio Guerrero García habrían recibido otra llamada telefónica, en la cuál les habrían dicho “que ya sabían cuáles eran las regiones en las que trabajaban los dirigentes agrarios de FENACOA, y que con escoltas o sin ellos, los matarían”. De la misma manera, el 10 de noviembre de 2004, varios miembros del Ejecutivo de FENSUAGRO habrían sido víctimas de seguimiento por dos desconocidos que se movilizaban en una motocicleta sin placas. Ese mismo día, un vehículo con dos hombres no uniformados habrían permanecido frente a la sede de FENSUAGRO. Se expresaron temores que estas nuevas amenazas contra cuatro importantes dirigentes pudieran estar relacionadas con su trabajo de asistencia e información a las comunidades campesinas e indígenas, en particular, al apoyo que ofrecían a la lucha por la reforma agraria integral, la soberanía alimentaria, el derecho a la territorialidad y a la vida digna. Se señaló que estas amenazas recientes formarían parte de una campaña de hostigamiento en contra de personas que laboran por los derechos agrarios. Según se alegó, el 17 de febrero de 1999, Julio Alfonso Poveda, dirigente agrario y uno de los fundadores de FENACOA, habría sido asesinado cerca de la oficina de FENACOA en Bogotá. Asimismo, el 22 de junio de 2004, Benedicto Caballero, Vicepresidente del Consejo Administrativo de FENACOA, habría sido asesinado cerca de La Mula en el municipio de Mesitas del Colegio, en Cundinamarca.

111. El 15 marzo 2005, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente sobre la situación de inseguridad en que se encontraría el Sr. **Miguel Alberto Fernández Orozco**, Presidente de la Central Unitaria de Trabajadores (CUT) Seccional Cauca y Coordinador del Área de Derechos Humanos del Comité de Integración del Macizo Colombiano (CIMA). Según las informaciones recibidas, el 8 de marzo de 2005, en horas de la tarde, se habría recibido en la sede de la CUT Seccional Cauca, un sobre conteniendo una carta de condolencia con supuestas amenazas contra el Sr. Fernández Orozco. Se informó que esta carta habría llegado un día después de la presentación pública de un informe sobre la situación de los derechos humanos en el Cauca realizada por el Sr. Fernández Orozco, en su calidad de Coordinador Regional de Derechos Humanos del CIMA. Se informó que esta persona habría sido, con anterioridad, objeto de otras amenazas debido a su trabajo como defensor de los derechos humanos. Según las informaciones, en 2004, se habría trasladado fuera del país para proteger su vida e integridad. Se expresaron que estas nuevas amenazas en contra de Miguel Alberto Fernández Orozco estuvieran relacionadas con la presentación del informe de violación de derechos humanos en el Departamento del Cauca y más generalmente con su actuación en las luchas sociales y su trabajo en favor de la reivindicación de los derechos de las comunidades campesinas y populares.

112. El 23 mayo 2005, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente En relación con

los periodistas Srs. **Daniel Coronell**, director del informativo “Noticias Uno”; **Carlos Lozano**, director del periódico “Voz” y **Hollman Morris**, productor del programa de noticias “Contravía” de Canal Uno, quienes habrían recibido amenazas de muerte mediante el envío de coronas fúnebres a sus oficinas y domicilios. De acuerdo a las informaciones recibidas, el 16 de mayo de 2005 por la mañana, Canal Uno recibió dos coronas florales: Una de ellas lamentaba la muerte de Daniel Coronell y la otra, la de su esposa e hija. Hacia las cuatro de la tarde, en la oficina de Carlos Lozano, fue entregada una corona floral con la dedicatoria. “De la familia Montoya para el sepelio de Carlos Lozano”. Hacia las ocho de la noche de ese mismo día, Hollman Morris recibió en su casa una corona de rosas blancas con una tarjeta que expresaba “sinceras condolencias” de parte de la familia Henao. A tenor de lo informado, los tres periodistas fueron también amenazados de muerte a través de llamadas telefónicas anónimas. Se informo que la labor profesional de dichos periodistas ha sido objeto de reconocimiento por su carácter independiente. Algunos de sus últimos trabajos hacen referencia a la ejecución de ocho habitantes de la Comunidad de Paz de San José de Apartadó el pasado 21 de febrero. (El 10 de marzo de 2005, la Reorese, junto con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario-General para los defensores de los derechos humanos, envió una comunicación con respecto a dicha ejecución.) En este contexto, se quería llamar a la atención del Gobierno sobre la información recibida en relación con el Sr. Cristiano Morsolin, periodista italiano. Según los informes, el 7 de abril de 2005, Cristiano Morsolin recibió un mensaje amenazante en el que se señalaba que grupos paramilitares habían iniciado la búsqueda de un periodista italiano. En dicho mensaje se hacía mención a una supuesta disconformidad mostrada por el Gobierno y el ejército colombiano en relación con las reacciones que había suscitado en la comunidad internacional la difusión de una serie de artículos escritos por Morsolin sobre la masacre ocurrida en San José de Apartadó. Se informo además que el 8 de abril de 2005, hacia las ocho de la mañana, un individuo permaneció durante un poco más de una hora frente la vivienda del Sr. Morsolin. Por tales actos el periodista tuvo que mudarse. Tras su salida ha sido detectada en las calles cercanas a su casa, la presencia de hombres armados y un control permanente de la misma a cargo de personas no identificadas. El 11 de abril un vehículo permaneció frente a las oficinas de CENSAT-Agua Viva –una organización con la que colabora el periodista– desde las dos de la madrugada hasta las siete de la mañana, hora en la que abandonaba el lugar el Sr. Morsolin. El mismo vehículo habría sido visto frente las oficinas de CENSAT los días 15 y 21 de abril. . Se expresaron temores que las amenazas referidas estuvieran relacionadas con la labor profesional que realizan estos cuatro periodistas. Según los informes, ya había sido otorgada protección policial a los Sres. Lozano y Coronell. Se insto al Gobierno a adoptar todas las medidas necesarias para garantizar a los periodistas un entorno seguro de trabajo, iniciar las correspondientes exhaustivas investigaciones y llevar a los culpables ante los tribunales de justicia.

113. El 24 de mayo de 2005, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con la situación de **Soraya Gutiérrez Arguello**, Presidenta de la Corporación Colectivo de Abogados ‘José Alvear Restrepo’; de **otros miembros** de la organización y de **los familiares** de la Sra. Gutiérrez Arguello. Esta persona fue ya objeto de una comunicación enviada el 20 de septiembre de 2004 por la Representante Especial. Según la información recibida, el 13 de mayo de 2005, vigilantes del conjunto residencial donde vive la Sra. Gutiérrez Arguello en Bogotá le entregaron un paquete que había sido dejado por una empresa de mensajería. Sospechosa de su contenido, la Sra. Gutiérrez Arguello avisó a la policía, la cual procedió a abrir el paquete. Dentro del mismo

había una muñeca decapitada y cortada en trozos. Partes de la muñeca estaban quemadas; el cuerpo estaba pintado con esmalte de uñas rojo, para que pareciese sangre y se había dibujado una cruz. Se incluía una amenaza escrita contra la familia. De acuerdo con los informes, el mismo día se publicó un anuncio en el periódico nacional ‘El Tiempo’, supuestamente contratado por la Corporación Colectivo de Abogados “José Alvear Restrepo”. En dicho anuncio se solicitaba a abogados, psicólogos, sociólogos y otros profesionales y estudiantes en busca de empleo, que se pusieran en contacto con la organización si deseaban obtener un empleo inmediato. En el aviso aparecían los números de teléfono de la organización. El día siguiente, 14 de mayo, se publicó otro anuncio parecido en el mismo periódico, mediante el cual se buscaba guardias de seguridad para la organización. La fecha y el lugar para presentar candidaturas para los puestos eran las mismas que las fijadas para una reunión entre la organización y víctimas de violaciones de derechos humanos. Se expresaron temores que estas acciones implicaron amenazas de muerte indirectas y que estuvieran directamente relacionadas con el trabajo en defensa de derechos humanos que lleva a cabo la Sra. Soraya Gutiérrez Arguello y los otros miembros de la Corporación Colectivo de Abogados José Alvear Restrepo.

114. El 26 mayo 2005, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con la integridad física y psicológica de varios miembros del Sindicato Nacional de Trabajadores de la Industria de Alimentos (SINALTRAINAL), seccional Barranquilla, en el departamento del Atlántico. Se señaló que varios miembros de dicho sindicato ya fueron objeto de llamamientos urgentes enviados por la Representante Especial, conjuntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre ejecuciones extrajudiciales, el 7 y el 26 de abril de 2004. Según la información recibida, el 28 de marzo de 2005, un panfleto del Bloque Bananero de las Autodefensas Unidas de Colombia (AUC) Costa Atlántica habría sido encontrado debajo de la puerta de la sede de SINALTRAINAL, seccional Barranquilla. En dicho panfleto se habría hecho referencia a una ‘operación final’ y se habría amenazado de muerte a los siguientes miembros de SINALTRAINAL: Eduardo García Pimienta, Eurípides Yance, Evelio Mancera, Eduardo Arévalo, Jesús Tovar, Antonio Andrade, Roberto Borja, Tomas Ramos, Adalberto Ortega, Víctor Vaca, Luis Jiménez, Osvaldo Camargo, Elicen Gárces, Jorge Eliécer Sarmiento, Freddy Páez, Ramón Camargo, Germán Castaño, Antonio García y Orlando Pérez Contreras, así como a todos los sindicalistas y trabajadores sindicados en la región. Se expresaron temores que estas nuevas amenazas podrían estar relacionadas con la defensa de los derechos de los trabajadores que hace SINALTRAINAL, sobre todo en relación con la preparación de un pliego de peticiones a presentar a las embotelladoras de Coca-Cola en la Costa Norte por la seccional Barranquilla.

115. El 31 mayo 2005, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con **Álvaro Guisao Usuga** y su familia, familiares de Ángel Quintero, un miembro de la Asociación de Familiares de Detenidos Desaparecidos (ASFADDES), quien habría sido secuestrado por hombres armados el 6 de octubre de 2000 en Medellín, junto con otra activista, Claudia Monsalve. Según la información recibida, el 7 de abril de 2005, hacia las seis de la mañana, Álvaro Guisao Usuga se dirigía en motocicleta a su trabajo en la ciudad de Medellín, departamento de Antioquia. Al llegar a un cruce, habría sido atacado por dos encapuchados quienes viajaban en otra motocicleta y le obligaron a detenerse. Luego de golpearle en la espalda con un revólver, uno de los asaltantes saltó a su motocicleta y le obligó a seguirle. En este

momento, Álvaro Guisao Usuga descendió de su motocicleta y huyó. Los asaltantes partieron. Álvaro Guisao Usuga denunció el ataque a la policía. El día siguiente, hacia las ocho y media de la tarde, en una calle de Medellín, Álvaro Guisao Usuga recibió de un desconocido un sobre cerrado con el logotipo de una empresa de pompas fúnebres. El sobre contenía una amenaza según la cual todos los miembros de su familia “desaparecerían” y serían asesinados, al igual que sus tíos. El escrito incluía el número de teléfono de una funeraria local y la advertencia de que continuaría siendo vigilado. A la luz de estas informaciones, se expresaron temores por la vida de Álvaro Guisao Usuga, así como por la de otros miembros de su familia. Particularmente, se refirió que siete miembros de su familia habrían desaparecido y otros dos habrían sido asesinados desde 1995, según se afirma, por paramilitares que estarían respaldados por miembros del ejército.

116. El 22 junio 2005, la Representante Especial, junto con el Relator Especial sobre la promoción y protección de la libertad de expresión y opinión, envió un llamamiento urgente en relación con **David Ravelo Crespo**, secretario de la Corporación Regional para la Defensa de los Derechos Humanos (CREDHOS), una organización no gubernamental ubicada en la ciudad de Barrancabermeja, departamento de Santander, Georgina Morales, estudiante y miembro de CREDHOS y Stivenson Torres, fallecido, miembro de la organización. De acuerdo con las alegaciones recibidas, el 31 de mayo de 2005 en la oficina de CREDHOS, David Ravelo recibió por teléfono una amenaza anónima en la cual se le aseguraba que iba a ser asesinado. Se informó de que David Ravelo anteriormente habría sido víctima de seguimientos repetidos por personas supuestamente vinculadas con grupos paramilitares respaldados por el ejército. En los últimos meses habría recibido varias amenazas de muerte telefónicas en la oficina por personas no identificadas. El 24 de mayo, dos hombres armados, montados en una motocicleta se acercaron a una compañera de clase de Georgina Morales y le instruyeron que le dijera a Georgina Morales que dejara Barrancabermeja en un plazo de tres días. Según los informes, en febrero de 2005, Georgina Morales sobrevivió a un intento de asesinato y ante el peligro fue obligada a huir de la ciudad. El 24 de abril de 2005 en Barrancabermeja, Stivenson Torres sufrió un atentado, supuestamente por parte de paramilitares, que acabó con su vida. En marzo de 2005, CREDHOS junto con el Centro de Investigación y Educación Popular presentaron un informe sobre al menos 170 casos de desaparición forzada ocurridos en Barrancabermeja entre los años 2000-2003. Según los informes, la mayoría de dichos casos fueron cometidos por paramilitares respaldados por el ejército. Se expresaron temores que el asesinato de Stivenson Torres y las amenazas de muerte de David Ravelo y Georgina Morales pudieran estar relacionados con su trabajo de promoción y protección de los derechos humanos en general y con dicho informe en particular.

117. El 30 de junio de 2005, la Representante Especial junto con el Relator Especial sobre la tortura, el Relator Especial sobre la situación de los Derechos Humanos y Libertades Fundamentales de los indígenas y la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria envió un llamamiento urgente en relación con la siguiente información recibida, el 24 de junio de 2005, cerca de 350 campesinos iniciaron una toma pacífica de una vía del Municipio de Totoró, Departamento del Cauca, en el marco de reivindicaciones sobre tenencia de la tierra y respeto a los derechos humanos. Hacia las 7.00 horas de dicho día, fuerzas combinadas del Ejército y de la Policía asentadas en Totoró, arrestaron a los campesinos Sres. **Manuel Eduardo Masagua Chantre, Luis Ortega Calambas y Joaquín Cometa**. Los dos primeros eran miembros de la “Asociación Campesina de Gabriel López y Agua Viva”. El segundo pertenecía al Pueblo Indígena de Ambaló. Se informa también que hacia las 10.30 horas

de ese día, las fuerzas antes mencionadas detuvieron a cerca de 70 campesinos en la Vereda San Pedro del mismo Municipio. No se había informado del lugar al cual los detenidos fueron transportados. No se presentaron órdenes judiciales de arresto al momento de procederse a las detenciones. Se informa por último que los “cambuches” (lugares de vivienda precaria) de esos campesinos, sus cobijas y colchonetas, fueron quemadas. En una de las cobijas los captores envolvieron un fusil, que fotografiaron. La vivienda de la Sra. María Jesús Calambas y del Sr. Rodrigo Pisso fue allanada de manera violenta, derribándose la puerta y atemorizándose a los miembros de la familia Calambas. Las dos personas mencionadas fueron también detenidas. Las pertenencias que se encontraban en dicha vivienda fueron quemadas. Particular preocupación se expreso por la integridad física y psicológica y por la seguridad de las personas detenidas y, en general, de los habitantes de la Vereda San Pedro y otras Veredas del Municipio de Totoró.

118. El 24 de agosto 2005, la Representante Especial, junto con el Relator Especial sobre la tortura envió un llamamiento urgente en relación con el Sr. **Iván Ernesto Egas Córdoba**, un estudiante de 23 años, hijo del Sr. **Ramiro Egas Villota**, Director del Comité Permanente por los Derechos Humanos (CPDH), seccional Nariño. El CPDH es una fundación reconocida mediante Resolución 3747 de 1985. Desde su creación en 1979, ha trabajado para la defensa de los derechos humanos, las libertades democráticas y la protección a la población civil en situaciones de conflicto armado. De acuerdo con la información recibida, el paradero de Iván Ernesto Córdoba permanecería desconocido desde el 11 de julio de 2005. Este día habría sido visto por última vez cuando salía de una fábrica de calzado en Pasto, Departamento de Nariño, en la que trabajaba durante la temporada de vacaciones. No se tenía ninguna información sobre su integridad personal. Se alego que una persona cuya identidad se desconocía, habría llamado al Sr. Ramiro Egas Villota un mes después de la desaparición de su hijo y le habría reportado que éste había sido objeto de detención arbitraria y desaparición forzada por parte de miembros de las Autodefensas Unidas de Colombia (AUC), un grupo paramilitar, como represalia por el trabajo realizado por su padre y el CPDH en defensa de los derechos humanos. Según la persona que llamó, las AUC afirman “no estar de acuerdo” con sus opiniones y su trabajo y reclaman la presencia del Sr. Ramiro Egas para efectuar un “intercambio”. Una denuncia habría sido presentada ante la Dirección Seccional de Fiscalías por la desaparición del estudiante. Según la información recibida, el Cuerpo Técnico de Investigaciones de la Fiscalía estaría llevando a cabo una investigación. Se expresaron temores por la seguridad e integridad física del Sr. Iván Ernesto Egas Córdoba y la de su padre, el Sr. Ramiro Egas Villota. A la luz de estas alegaciones, se expresaron temores que la desaparición del estudiante estuviera estrechamente vinculada con las actividades en defensa de los derechos humanos llevadas a cabo por su padre y que se trataba de un intento de disuadir el Sr. Ramiro Egas Villota y los otros líderes del CPDH de continuar con su trabajo.

119. El 20 de septiembre 2005, la Representante Especial, junto con el Relator Especial sobre la tortura, envió una comunicación en relación con el Sr. **Luciano Enrique Romero Molina**, de 47 años, líder y antiguo Secretario de Derechos Humanos del Sindicato Nacional de Trabajadores de las Industrias de Alimentos (SINALTRAINAL), y activo colaborador junto a la FCSPP, en donde realizaba actividades de solidaridad y atención humanitaria con los detenidos en Valledupar, departamento de Cesar. De acuerdo con las alegaciones recibidas, el 10 de septiembre del 2005, el Sr. Molina quien tenía medidas cautelares de protección otorgadas por la Comisión Interamericana de Derechos Humanos (CIDH)-OEA, fue secuestrado por personas desconocidas. El día siguiente, el 11 de septiembre, en horas de la mañana, fue encontrado su

cuerpo sin vida, amarrado de pies y manos y con muestras de haber sido torturado ya que le fueron propinadas cerca de 40 cuchilladas. El 22 de octubre del 2002, el Sr. Luciano Enrique Romero Molina fue despedido de su trabajo en la Fábrica de Productos Alimenticios Nestlé-Cicolac, en Valledupar por un supuesto cese de actividades que fue declarado ilegal por el Ministerio de Protección Social. Según las informaciones, en el Juzgado Primero Laboral del Circuito de Valledupar, cursaba una demanda laboral por reintegro a su puesto de trabajo, instaurada por el Sr. Luciano Enrique Romero Molina contra las empresas Nestlé de Colombia S.A., Cicolac Ltda. y Dairy Partens Américas Manufacturing Colombia Ltda. “DPA Colombia Limitada”. Después de su despido laboral, se dedicó a monitorear la situación de derechos humanos de los presos políticos recluidos en las cárceles de Valledupar. Se expresaron temores que la muerte del Sr. Molina, estuviera vinculada con sus actividades como defensor de los derechos humanos y sindicales.

120. El 28 de septiembre 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con **José Onofre Esquivel Luna**, dirigente de la sección de Bugalagrande del Sindicato Nacional de Trabajadores de la Industria de Alimentos (SINALTRAINAL) en el departamento de Valle del Cauca, quien fue objeto de un llamamiento urgente enviado el 26 de abril de 2004 por 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 la Representante Especial del Secretario General para los defensores de los derechos humanos. Según las informaciones recibidas en 2004, el sindicalista había sido declarado objetivo militar. También se recibió información que levantaba preocupación sobre la seguridad de otros miembros de SINALTRAINAL. El 7 de abril de 2004 el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, la Relatora Especial sobre ejecuciones extrajudiciales y la Representante Especial del Secretario General para los defensores de los derechos humanos ya enviaron un primer llamamiento urgente conjunto en relación a este caso. Según la nueva información recibida, el 12 de septiembre de 2005, José Onofre Esquivel Luna habría visto un automóvil blanco circulando en torno a su casa en el municipio de Bugalagrande. Posteriormente, el 19 de septiembre de 2005, habría visto un desconocido armado merodeando alrededor de su domicilio. Según los informes, los vecinos de José Onofre Esquivel Luna habrían reportado que en varias ocasiones se les han acercado desconocidos preguntando sobre el paradero del dirigente sindicalista. Se recibió información que el 11 de septiembre se halló el cuerpo sin vida de Luciano Enrique Romero Molina, otro miembro de SINALTRAINAL que había recibido amenazas de muerte en el pasado. A este respecto, el Relator Especial sobre la tortura y la Representante Especial del Secretario General para los defensores de los derechos humanos enviaron una comunicación el 20 de septiembre de 2005. A la luz de las alegaciones recibidas y teniendo en cuenta el reciente homicidio de otro sindicalista, se expresaron temores por la vida y la seguridad física de José Onofre Esquivel Luna y de sus compañeros del SINALTRAINAL. Se expresaron temores que el acoso de José Onofre Esquivel Luna estuviera relacionado con su trabajo como sindicalista.

121. El 3 de octubre 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con **Mario de Jesús Castañeda**, dirigente de la sección de Huila de la Central Unitaria de Trabajadores (CUT), una organización que se propone la unidad de todos los trabajadores colombianos, defendía las conquistas y derechos actuales de los trabajadores y busca el

mejoramiento de sus condiciones de vida y de trabajo. Según la información recibida, el 22 de septiembre de 2005, Mario de Jesús Castañeda habría recibido una carta en las oficinas de la CUT en Neiva, departamento de Huila. La carta habría sido mecanografiada y firmada por el Bloque Central Bolívar de las Autodefensas Unidas de Colombia (AUC), y habría dicho: “Hoy estamos recordándole que desde hace tiempo nos molesta con su grosería atacando al gobierno [...] usted y otros revolucionarios sindicalistas como usted que son gusanos habladores calumniadores contra cada gobierno que tenemos y gente de bien [...] que no dejaremos [de actuar] hasta verla en paz y libre de gente como ustedes [...] Se va, se calla o actuamos”. Además, según los informes, el 20 de septiembre de 2005, unos agentes de policía habían sometido a Mario de Jesús Castañeda a un registro en la estación de autobuses de Neiva y lo habrían detenido durante unos 50 minutos. Los agentes habrían fotocopiado los documentos que llevaba. Entre los documentos se encontraba información recabada para presentar una denuncia formal ante las autoridades en relación con la presunta violación de una mujer por paramilitares. A la luz de las alegaciones recibidas, se expresaron temores por la vida y la seguridad física de Mario de Jesús Castañeda. Se expresaron temores que los actos de acoso en contra de Mario de Jesús Castañeda estuvieran relacionados con su trabajo para la Central Unitaria Trabajadores, y en particular con su trabajo en el caso de la presunta violación de una mujer por paramilitares.

122. El 7 de octubre 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con **Samuel Morales**, Presidente de la Central Unitaria de los Trabajadores (CUT) seccional Arauca, sus hermanas, **Omayra Morales**, **Matilde Morales**, **Gladys Morales**, y otros miembros de su familia. Según la información recibida, el 21 de septiembre de 2005, entre las 10:00 y las 10:30 de la mañana, la secretaria del Centro Educativo “Juan Jacobo Rousseau”, donde trabajan las profesoras, Omayra Morales y Gladys Morales, habría recibido una llamada de teléfono de una persona desconocida, quien se identificó como miembro de las Autodefensas Unidas de Colombia (AUC). El hombre habría dicho “Díganle a las profesoras Gladys y Omayra Morales que tienen 72 horas para abandonar el departamento, que los que sean familia del señor Samuel Morales son objeto nuestro y que deben desaparecer de Arauca; además que Samuel Morales aun tiene cuentas pendientes con nosotros AUC”. Además, el mismo día, entre las 10:30 y las 11:00, la secretaria de la escuela “Gabriel García Márquez”, donde trabaja Matilde Morales, habría recibido una llamada amenazante similar. Aquella tarde, aproximadamente a las seis y media, Omayra Morales habría recibido otra llamada en su casa, la cual habría repetido la amenaza. Samuel Morales se encuentra bajo custodia desde agosto de 2004, por cargos de actividad guerrillera que parecen ser falsos. En varios casos, la gente acusada de este tipo de cargos es asesinada después de ser puesta en libertad. Según los informes, en las últimas semanas las hermanas Morales habrían sido retenidas repetidamente en controles militares, durante muchas horas. Además, agentes de policía habrían presionado al director de un hospital local para que diera el alta a la esposa de Samuel simplemente por ser su esposa. Se expresaron graves temores por la seguridad de Samuel Morales, Omayra Morales, Matilde Morales, Gladys Morales y otros miembros de su familia, en particular a la luz de la supuesta ejecución de tres sindicalistas en Arauca el 5 de agosto de 2005 por soldados de la XVIII Brigada. Se expresaron temores que la detención de Samuel Morales y el acoso de su familia formaran parte de un intento para minar el trabajo de los sindicalistas y los defensores de los derechos humanos en Arauca.

123. El 19 de octubre de 2005, la Representante Especial junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, enció una llamada urgente en relación con el caso del Señor **Orlando VALENCIA**, de ascendencia africana, de Curvaradó, habitante de la zona humanitaria de “Bella Flor Remacho” y destacado defensor de la biodiversidad y de los derechos de su comunidad. El Sr. Valencia está bajo el amparo de medidas provisionales de protección dispuestas por la Corte Interamericana de Derechos Humanos (CIDH): Fue recientemente invitado a la ciudad de Chicago, Estados Unidos, para asistir a una conferencia sobre la situación de los derechos humanos en Colombia. Según las informaciones recibidas, el 15 de octubre de 2005, el Señor Valencia habría sido detenido luego de que el vehículo en el que viajaba con acompañantes nacionales, extranjeros y miembros de las comunidades, fuera interceptado por la policía de Belén de Bajirá en el punto “La “Y”, a pocos minutos de Brisas. Los policías se ubicaron en la carretera y apuntando con sus armas, revisaron los documentos de identidad y habrían ordenado al Sr. Valencia que se subiera al vehículo policial. El capitán ordenó a los demás acompañantes que le siguiesen de regreso hacia la estación de policía de Bajirá. Cerca al lugar se encontraba otro vehículo, tipo camioneta de color blanco, en el que se encontraban tres conocidos paramilitares. Alrededor de las 11.30 horas los acompañantes del Sr. Valencia fueron puestos en libertad. Hacia las 12:30 horas, el Sr. Valencia y los otros detenidos recuperaron la libertad. Alrededor de las 12:40 se dirigieron a la casa del campesino Enrique Petro, en la localidad de Bajirá, uno de los que formaba parte del grupo. El Sr. Valencia, cuando iba a entrar en la casa de su amigo, fue abordado por dos conocidos paramilitares armados quienes le gritaron: “vamos o si no lo pelamos, lo matamos aquí”. Éstos le habían seguido en una motocicleta. Un miembro de Justicia y Paz intentó interponerse, siendo amedrentado con un arma corta que portaba uno de los paramilitares. Éstos obligaron inmediatamente al Sr. Orlando Valencia a subir a la moto, y se lo llevaron rumbo a Chigorodó. Desde ese momento no se conoce su paradero. Según las informaciones, cuando el acompañante de Justicia y Paz se dirigía a una cabina telefónica a informar de lo sucedido, fue seguido por otros hombres en dos motocicletas. Se teme que la desaparición del Sr. Valencia pueda estar relacionada con sus actividades en favor de los derechos humanos. El Sr. Valencia lideró un movimiento el 4 de septiembre de 2005, en el municipio de Murindó, exigiendo al Estado una respuesta eficaz de protección frente a la destrucción de la biodiversidad y de protección de sus vidas, amenazadas por las empresas palmicultoras y los agentes estatales y paraestatales que las sirven, así como la devolución de las tierras de las que se han apropiado ilegalmente en las cuencas del Curvaradó y Jiguamiandó. El Sr. Valencia sería además un posible candidato a asumir la representación legal del Consejo Mayor del Curvaradó. Se informa también que su actual representante, la Sra. María Ligia Chaverra, sería víctima de una persecución pública, militar y judicial por parte de los sectores proclives a la siembra extensiva de palma dentro de los territorios colectivos. Se informa por último que, días antes, el 10 de octubre de 2005, soldados del ejército registraron varias casas de la Comunidad de Nueva Esperanza y habrían amenazado a los habitantes diciéndoles que: “en tres días vienen los que van a cortar cabezas”.

124. El 1 de noviembre del 2005, la Representante Especial, junta con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió una carta de alegación en relación con el Señor Orlando Valencia, de ascendencia africana, de Curvaradó, habitante de la zona humanitaria de “Bella Flor Remacho” y destacado defensor de la biodiversidad y de los derechos de su comunidad. El Sr. Valencia fue objeto de una comunicación enviado por el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Representante Especial del Secretario-General para los defensores de

los derechos humanos el 19 de octubre de 2005. Según las nuevas informaciones recibidas, el 24 de octubre de 2005, fue encontrado el cuerpo del Señor Orlando Valencia, sin vida, en el río León, en un lugar conocido como “Bocas de Zábalo”, a unos treinta minutos de la municipalidad de Chirigorodó, departamento de Antioquia. Habría recibido un disparo en la frente, y habría tenido las manos amarradas. El cuerpo sólo fue identificado dos días después del descubrimiento, después de tomar las huellas dactilares. Se expresaron temores que la muerte del Sr. Orlando Valencia estuviera vinculada con sus actividades como defensor de los derechos humanos y en particular por los derechos de su comunidad.

125. El 8 de diciembre de 2005, la Representante Especial, junta con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con la situación de inseguridad y peligro en la que se encontrarían **Lilia Solano Ramírez**, profesora de la universidad y directora de la organización no gubernamental de derechos humanos “Proyecto Justicia y Vida”, y su familia. Lilia Solano Ramírez fue el objeto de una comunicación que transmitimos a su Gobierno el 31 de agosto del 2004 y por la cual recibimos una respuesta el 8 de diciembre del 2004. Según la nueva información recibida, el 4 de diciembre de 2005, aproximadamente a las 17:30, dos hombres y una mujer armados que se presentaron como miembros de la policía, habrían entrado en el apartamento, en la ciudad de Bogotá, donde vive Lilia Solano Ramírez, y donde se encontraba solo su hijo. Le habrían amenazado con un arma de fuego, amarrado e insultado. Según los informes, los perpetradores habrían registrado toda la vivienda, en particular todos los documentos. Se habrían llevado el disco duro de su ordenador, varios documentos importantes, dos teléfonos celulares y algunos otros objetos. Se expresaron graves temores por la seguridad y la integridad física y psicológica de la Sra. Lilia Solano Ramírez y de su familia. Se expresaron temores que estas amenazas estuvieran relacionadas con su trabajo como directora de la organización no-gubernamental “Proyecto Justicia y Vida”.

### **Comunicaciones recibidas**

126. Por carta con fecha 17 May 2005, el gobierno de Colombia respondió a la comunicación del 4 de enero de 2005. El gobierno informo que la Dirección Seccional de Fiscalías de Cartagena informo la Fiscalía Veintitrés de Magangué adelanto investigación penal numero 4543 por el delito de calumnia en contra del sacerdote **Joaquín Mayorga**. El Fiscal señaló que de conformidad con el artículo 39 del ordenamiento penal, mediante Resolución del 28 de noviembre de 2004, precluyó dicha investigación y ordeno su archivo, al tiempo que su despacho nunca había ordenado captura contra el presbítero. La Dirección Seccional de Fiscalías de Cartagena informo que no se adelantado ninguna investigación penal contra el sacerdote y en consecuencia la captura referida no se relaciona con actuaciones de ese Despacho. El Programe Presidencial de Derechos Humanos informo que la detención del sacerdote Joaquín Mayorga. Se debió al error de identificación.

127. Por carta con fecha 11 de julio de 2005, la Misión Permanente de Colombia ante las Naciones Unidas transmitió la siguiente información en relación con la comunicación del 28 de febrero de 2005 en relación con el señor **Gentil Cruz**. El gobierno informo que la Fiscalía Cuarto Delegado de la Nación informo que se abrió la correspondiente previa con radicado 5887 y se comisiono a la Unidad Investigativa de Policía Judicial para que adelantar las actividades de inteligencia, a fin de dar con el paradero de la presunta víctima, así como las de individualización

e identificación de los autores del ilícito. De acuerdo con el informe de inteligencia, el señor Gentil Cruz habría sido retenido por miembros de las Autodefensas Unidas de Colombia, pertenecientes al Bloque de Resistencia Tayrona, que delinquen en jurisdicción del municipio de Guachaca. Los hechos de relativos de la presunta desaparición fueron puestos en conocimiento de la Comisión de Búsqueda de Personas Desaparecidas. El gobierno informo que hasta la fecha no se tenía conocimiento del paradero del señor Gentil Cruz, como tampoco señales de su supervivencia. Mediante resolución del 30 de marzo de 2005 el Fiscal Cuarto Delgado ante los Jueces Penales del Circuito de Santa Marta considero que la investigación debería adelantarse por el delito de desaparición forzada, por lo que se ordeno el envío de las diligencias a la Oficina de Asignaciones de la misma ciudad para su resignación.

128. Por carta con fecha 12 de mayo de 2005, la Misión Permanente de Colombia ante las Naciones Unidas transmitió la siguiente información en relación con la comunicación del 10 de marzo de 2005 sobre el caso de ochos personas secuestradas y asesinadas en febrero de 2005, entre ellas, **Luís Eduardo Guerra Guerra** y **Alfonso Bolívar Tuberquia Graciano**. Con el propósito de esclarecer los hechos, el Gobierno creó una Comisión integrada por delegados de la Unidad de Derechos Humanos de la Fiscalía General y de la Procuraduría Delegada para los Derechos Humanos y Asuntos Étnicos. La Comisión se desplazó a la Comunidad de Paz de San José de Apartadó el 24 de febrero y al día siguiente efectuó el levantamiento de los cadáveres en el sitio conocido como “La Resbalosa” y el 27 de febrero en el Río Mulatos. El 2 de marzo, en el trayecto hacia Apartadó, la Comisión fue víctima de una emboscada, aparentemente perpetrada por las FARC. Varias personas resultaron heridas y un policía muerto. Por otro lado, la población se negó a colaborar con los investigadores. Las primeras indagaciones realizadas por la Fiscalía indicarían a las FARC como presuntos responsables de los asesinatos del mes de febrero de 2005. No obstante se sigue investigando el caso en el marco del Comité Especial de Impulso a las Investigaciones por Violaciones a los Derechos Humanos. Según la información proporcionada por el Ministerio de Defensa, no había unidades militares en la zona en el momento del asesinato, lo que contradice las afirmaciones según las cuales militares serían presuntos responsables de la masacre. Asimismo el Gobierno insiste sobre la implementación de las medidas provisionales decretadas por la Corte Interamericana de Derechos Humanos a fin de proteger la Comunidad de Paz de San José de Apartadó, como por ejemplo las visitas in situ de delegados del Gobierno y las reuniones interinstitucionales realizadas a nivel central. En agosto y octubre de 2004 el Vicepresidente de la República visitó la zona y en el marco de reuniones con organizaciones de derechos humanos, aseguró que el Gobierno seguirá sosteniendo dichas organizaciones en su trabajo. El Vicepresidente también se encontró periódicamente en Bogotá con los líderes de la comunidad con el objetivo de tomar medidas de protección y se propuso instalar un puesto de policía en la zona de los hechos. El Gobierno colombiano informará oportunamente a la Representante sobre el desarrollo y resultado de las investigaciones.

129. Por carta con fecha 7 de julio de 2005 la Misión Permanente de Colombia ante las Naciones Unidas remitió la siguiente información en respuesta a la comunicación del 15 de marzo de 2005 relativa al señor **Miguel Alberto Fernández Orozco**. El 12 de abril, el Comité de Reglamentación y Evaluación de Riesgos (CRER) asignó un esquema individual de protección compuesto hasta ahora por un vehículo ordinario, hasta la adquisición de un vehículo blindado, y tres escoltas. Los hechos de hostigamiento y amenazas fueron puestos en conocimiento de la Dirección Nacional de Fiscalías para que se realicen las investigaciones necesarias. También se solicitó a la Policía Nacional adoptar medidas para proteger al señor

Fernández Orozco. El Gobierno colombiano informará oportunamente al los Representantes y Relatores sobre los resultados de las investigaciones.

130. Por carta con fecha 30 de agosto de 2005, la Misión Permanente de Colombia ante las Naciones Unidas transmitió la siguiente información en relación con la comunicación del 23 de mayo de 2005 sobre el caso de los periodistas Daniel Coronel, Hollman Morris, Carlos Lozano y Cristiano Morsollín. El Gobierno Nacional hizo un pronunciamiento público para reconocer el valor de los periodistas y rechazar esta clase de actos. La Fiscalía General de la Nación inició las acciones de investigación y de protección que se extienden a los familiares de los periodistas. El Comité de Reglamentación y Evaluación de Riesgos (CRER) del Programa de Protección a Periodistas y Comunicadores del Ministerio del Interior y de Justicia mediante Acta N°4 del 20 de Mayo de 2005 recomendó las medidas de protección siguientes. Daniel Coronel Castañeda: un esquema individual de seguridad con vehículo blindado. Asignación de cuatro avanteles, 2 para su esquema y 2 para el de su esposa, también periodista y refuerzo del esquema de seguridad con un escolta más del DAS. De manera extraoficial, a través de los medios de comunicación se tuvo conocimiento que el Sr. Coronel salió del país. Hollman Morris: un esquema individual de seguridad con vehículo corriente, dos escoltas y tres radios avanteles. Por otra parte, el Area de Seguridad y Protección de la Dirección de Protección y Servicios Especiales de la Policía Nacional asignó un agente de policía en turno diurno en la residencia del Sr. Morris. Durante la noche la vigilancia se refuerza por medio de patrullajes motorizados con personal de la DIRSE “vigilancia recomendada”. Carlos Lozano, dirigente y miembro del Comité de Reglamentación y Evaluación de Riesgos del Programa de Protección de la Unión Patriótica – Partido Comunista Colombiano (UP-PCC): un esquema individual de seguridad con vehículo blindado y un acompañamiento con otro vehículo corriente, siete escoltas, medios de comunicación (avanteles y celular), blindaje de la sede del periódico y su residencia, apoyo de reubicación temporal, tiquetes aéreos nacionales. Cristiano Morsollín. No presentó solicitud de protección y salió del país. En cuanto a la investigación, la Unidad Nacional de Derechos humanos y derecho internacional humanitario de la Fiscalía general de la Nación, abrió un expediente con el número 2193 por el delito de amenazas personales que se encuentra en etapa previa sin imputación a persona.

131. Por carta con fecha 30 de agosto de 2005, la Misión Permanente de Colombia ante las Naciones Unidas transmitió la siguiente información en relación con la comunicación del 24 de mayo sobre las amenazas dirigidas contra la **Sra. Soraya Gutiérrez Arguello**, presidenta de la Corporación Colectivo de Abogados “José Alvear Restrepo”, otros miembros de la organización y los familiares de la Sra Gutiérrez Arguello. Los miembros del Colectivo de Abogados son beneficiarios de medidas cautelares desde 2002 a las cuales se hace seguimiento constante. En cuanto a medidas de carácter material, el Ministerio de Interior y de Justicia ha informado que se han realizado trabajos de blindaje en la sede de la organización y que se han brindado medios especiales de comunicación. El esquema de seguridad incluye los servicios de seis escoltas contratistas y cuatro vehículos blindados. La **Sra Gutiérrez Arguello** desde antes de las amenazas recibidas el 13 de Mayo cuenta con un esquema individual de seguridad compuesto por un vehículo blindado, un conductor no armado según su solicitud y medios de comunicación. Tan pronto como la Sra Gutiérrez Arguello regrese al país y dé aviso a las autoridades competentes, el Estado continuará prestándole seguridad y protección. Por otra parte, la Fiscalía General de la Nación inició una investigación con el número 2193 por el delito de amenazas personales que se encuentra en etapa previa sin que exista imputación. El CTI está realizando

labores de policía judicial para identificar y sancionar a los responsables. El Gobierno seguirá informando oportunamente al Relator del resultado de las investigaciones.

132. Por carta con fecha el 21 de noviembre, la Misión Permanente de Colombia ante las Naciones Unidas transmitió la siguiente información en relación con la comunicación del 30 de junio de 2005, con respecto a la presunta detención arbitraria de 70 campesinos de Totoro (Cauca). El gobierno informo que no se trato de una detención arbitraria sino de una operación policiva de mantenimiento del orden público, en virtud de las normas existentes para tal fin en el Código Nacional de Policía. El gobierno informo que existían incongruencias frente al numero de personas involucradas, fueron 43 personas en vez de 70 personas. Respecto a los demás hechos el gobierno informo que los miembros de la Fuerza Publica al trasladarse al lugar de las protestas el día 24 de junio registraron el sector, verificando la inexistencia de armas, no se realizo ninguna incautación –contrario a lo que se menciona en la denuncia acerca del fusil y posteriormente se condujo de manera pacifica a algunos miembros de la comunidad hacia la ciudad de Popayán, con el fin de verificar sus identidades, antecedentes, comunidad a la que pertenecen y llevar a cabo una reunión interinstitucional con el fin de lograr un acuerdo que pusiera fin al bloqueo de la carretera. El gobierno señaló que el traslado de los campesinos se hizo de manera pacifica y estuvieron todo el tiempo comunicados entre si y con sus familias, fueron alimentados. Después de celebrar la reunión, fueron trasladados a su sitio de origen. La mencionada reunión contó con la participación del Gobernador del Cauca, la Procuradora Regional del Cauca, el Alcalde de Totoro, el Coronel del Ejercito Nacional Brigada 29, el Presidente de la Asociación de Personeros del Cauca, el Personero Municipal de Totoro, el Consejero Mayor del Consejo Regional Indígena del Cauca, el Presidente de la Asociación Campesina y los comuneros. Se estableció el compromiso de no agresión entre los manifestantes y el despeje de la vía bloqueada. El gobierno informo que no fue presentada ninguna queja por parte de los campesinos ante las autoridades competentes y así no hubo lugar a la apertura de investigaciones en este caso, pues las autoridades actuaron conforme a la ley. Se hizo uso de la normatividad establecida en el Código Nacional de Policía y jurisprudencia al respecto, sobre la preservación del orden publico y el procedimiento desarrollado por la Policía Nacional estuvo enmarcado dentro de la normatividad vigente y respetando y garantizando los derechos de las comunidades indígenas y campesinas.

133. Por carta con fecha 23 de diciembre de 2005, la Misión Permanente de Colombia ante las Naciones Unidas transmitió la siguiente información en relación con la comunicación del 26 de mayo de 2005 sobre las amenazas dirigidas contra varios miembros del **Sindicato Nacional de Trabajadores de la Industria de Alimentos (SINALTRAINAL)**. La Fiscalía General de la Nación informó que se abrió la investigación N° 210841 a cargo del Fiscal 19 de Seguridad Pública el 6 de abril de 2005 por el delito de amenazas contra Evelio Mancera Sánchez, Eduardo García Pimienta, Jesús Tovar y Antonio Andrade. El departamento administrativo de seguridad informó que el nivel de riesgo es medio bajo y que el Ministerio del Interior y de Justicia asignó un esquema de seguridad y que la fuerza pública está realizando vigilancias. Un informe del Cuerpo Técnico de Investigaciones indicó que no se logró identificar a los autores. El 20 de abril de 2005, se abrió la investigación N°211679 a cargo del Fiscal 16 de Seguridad Pública por el delito de amenazas contra Roberto Rojas, Tomás Ramos, Evelio Mancera, Eurípides Yance, Eduardo Arévalo, Jesús Tovar, Antonio Andrade, Víctor Baca, Luís Jiménez, Oswaldo Camargo y Jorge Sarmiento. El 27 de Mayo el Fiscal emitió una resolución comisionando al Departamento administrativo de seguridad, a la seccional de policía judicial y al cuerpo técnico de

investigaciones para evaluar el nivel de riesgo. Las víctimas han sido citadas pero no han comparecido. El Gobierno informará al Relator sobre el resultado de las investigaciones.

134. Por carta con fecha 13 de diciembre de 2005, la Misión Permanente de Colombia ante las Naciones Unidas transmitió la siguiente información en relación con la comunicación del 28 de septiembre de 2005 sobre el caso del **Sr. José Onofre Esquivel Luna**. El Sr. Onofre Esquivel es beneficiario de un esquema de protección colectivo asignado a la organización SINALTRAINAL-Bugalagrande por el programa del Ministerio de Interior y de Justicia que se compone de tres unidades de escoltas contratistas, dos pistolas, un arma de apoyo, dos chalecos antibalas y un vehículo. La Defensoría del Pueblo, a través de su Seccional del Valle del Cauca, realiza un seguimiento especial a su situación.

135. Por carta con fecha de 21 de diciembre de 2005, la Misión Permanente de Colombia ante las Naciones Unidas remitió la siguiente información adicional en respuesta a la comunicación del 7 de octubre de 2005 relativa al **Sr. Samuel Morales**, sus hermanas **Omayra, Matilde y Gladys Morales** y otros miembros de su familia. El Programa Presidencial para los derechos humanos y el derecho internacional humanitario, junto con la oficina de Derechos humanos del Ministerio de la Protección social y el funcionario encargado del mismo tema en el Instituto Nacional Penitenciario y Carcelario, llevaron a cabo una visita en el mes de octubre de 2005 a la Cárcel Modelo de Bogotá, para reunirse con el Sr. Morales, bajo custodia desde agosto de 2004 por cargos de actividad guerrillera. De gestión conjunta con la Gobernación del Departamento de Arauca, el Ministerio de Educación Nacional y la Alcaldía de Arauquita se coordinaron con la fuerza pública acciones para preservar la vida y seguridad de las hermanas del Sr. Morales. El Programa Presidencial coordinó junto con la alcaldía del municipio de Saravena, medidas para proteger a la esposa del Sr. Morales. El Ministerio de Defensa Nacional ha informado que el caso del Sr. Morales y su familia fue remitido a la oficina de derechos humanos del comando general de las Fuerzas militares para que adopte las medidas adecuadas. El Gobierno informará oportunamente al relator del resultado de las investigaciones que se adelanten.

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

136. Por carta con fecha el 23 de diciembre de 2005 la Misión Permanente de Colombia ante las Naciones Unidas remitió la siguiente información adicional en respuesta a la comunicación del 19 de octubre de 2004, relativa al homicidio de la señora Teresa Yarse, líder de la Asociación de Mujeres de Independencia (AMI). El gobierno informo que el 14 de abril de 2005 se expidió nueva resolución de pruebas, tendientes de esclarecimiento de los hechos. El 26 de abril de 2005 se anexa el radicado 747394 sobre amenazas, denuncia instaurada en su momento por la fallecida. Se estableció que la muerte fue producida por consecuencia natural y directa de laceraciones encefálicas causadas por heridas en el cráneo por proyectiles de arma de fuego. A la fecha no se había constituido parte civil. El Gobierno señaló que seguiría atento al resultado de las investigaciones que se adelantaran, respecto de lo cual informaría oportunamente a la Representante Especial. El gobierno informo que el caso de la señora Teresa Yarse, también se encuentra denunciado ante la Comisión Interamericana de Derechos Humanos.

#### **Observations**

137. The Special Representative thanks the Government for its prompt responses to most of her communications. She looks forward to receiving more information concerning the

investigation into the disappearance of **Gentil Cruz** and into the kidnappings and murders of **Luis Eduardo Guerra Guerra** and **Alfonso Bolivar Tuberquia Graciano** and other investigations that are being pursued by the Colombian authorities.

138. While she welcomes the protective measures that have been adopted regarding the cases of **Soraya Gutierrez** and **Miguel Alberto Fernandez Orozco** she remains concerned regarding the levels of harassment and threat that human rights defenders face in Colombia.

139. The Special Representative notes that the number of communications sent to Government of Colombia concerning cases of defenders in danger and difficulty remains especially high. She notes that despite repeated expression of concerns under her mandate, the situation of human rights defenders in Colombia does not seem to have improved but rather deteriorated. In this context, she respectfully reminds the Government of the principle enunciated by the Commission for Human Rights in its Resolution 2005/67 "all states should adopt measures to guarantee the protection of human rights defenders and should create and maintain an environment a favourable environment for the work of human rights defenders and their families.

### Côte d'Ivoire

#### Communications envoyées

140. Le 2 février 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant la situation du Mouvement ivoirien des droits de l'homme (MIDH) et de certains de ses membres, en particulier M. **Amourlaye Touré**, son président. D'après les informations reçues, le 26 janvier 2005, le MIDH publiait, conjointement avec la Fédération de droits de l'homme, un rapport sur la reprise des hostilités en Côte d'Ivoire en novembre 2004 qui dénonçait les graves violations des droits de l'homme perpétrées par les parties en présence lors de ces événements. Le 28 janvier 2005, le dirigeant de l'Alliance des jeunes patriotes, dans une interview à la radio, réagissait aux informations contenues dans ce rapport, le qualifiant de «provocation». Le 29 janvier, le MIDH aurait reçu un courriel anonyme de menaces informant Amourlaye Touré que ses membres devaient se considérer en «partance pour l'enfer». Depuis lors, les membres du MIDH, plus particulièrement M. Touré, auraient été l'objet d'actes de harcèlement et de menaces répétées. Amourlaye Touré aurait été récemment informé par des sources concordantes de l'existence de menaces d'expéditions punitives contre le siège de son organisation, ainsi que de la probable préparation d'un attentat contre sa personne. Des craintes ont été exprimées que ces attaques ne visent à empêcher le MIDH de conduire ses activités en faveur des droits de l'homme. Ces craintes sont d'autant plus vives que ces actes s'inscrivent dans un contexte de harcèlement récurrent du MIDH.

141. Le 4 avril 2005, la Représentante spéciale du Secrétaire général a envoyé un nouvel appel urgent concernant des membres du Mouvement ivoirien des droits de l'homme, en particulier son président M. **Amourlaye Touré**. Selon les nouvelles informations reçues, le 21 mars 2005, un nouveau courrier électronique anonyme de menaces aurait été adressé au MIDH. Le message comporterait le texte suivant: «Dans notre dernière correspondance nous mettions votre bande [...] en garde contre vos agissements bien connus de tous! [...]. Votre complot est démasqué et les morts de Logoualé nous commandent de réagir maintenant. Votre intérêt pour le blindage de nos véhicules nous amène à vous demander si [le véhicule] dans [lequel] vous paradez l'est!

Dans notre prochaine correspondance (si vous vivez encore!) nous vous donnerons la liste de votre gang ainsi que les trous où vous semblez vous cacher [...]». Des craintes ont été exprimées que ces nouvelles menaces à l'encontre MIDH ne soient liées aux activités de défense des droits de l'homme de l'organisation et de son président.

### **Communications reçues**

142. Le 3 mai 2005, le Gouvernement a répondu à la communication du 2 février 2005. Le Gouvernement assure la Représentante spéciale du Secrétaire général de l'étroitesse des contacts entre le Mouvement ivoirien des droits de l'homme et le Ministre de la sécurité. Par le biais du Ministre de la sécurité et ancien président de la Ligue ivoirienne des droits de l'homme, le Gouvernement indique que M. Touré et ses membres ont toujours été satisfaits des mesures prises à leur égard et réaffirme son entière disponibilité à recevoir le Président du MIDH et envisager avec lui toutes dispositions utiles.

### **Suivi des communications envoyées l'année précédente**

143. Le 11 mars 2005, le Gouvernement a répondu à la communication envoyée le 2 juin 2004 concernant les membres du **Mouvement ivoirien des droits de l'homme**, en particulier le Président, M. **Amourlaye Touré**. Par le biais du Ministre de la sécurité et ancien président de la Ligue ivoirienne des droits de l'homme, le Gouvernement indique que M. Touré et ses membres ont toujours été satisfaits des mesures prises à leur égard et réaffirme son entière disponibilité à recevoir le Président du MIDH et envisager avec lui toutes dispositions utiles.

144. Par lettre datée du 11 mars 2005, le Gouvernement a répondu à la communication urgente du 2 juin 2004 relative à M. **Amourlaye Touré**, Président du MIDH, et M. **Mamadou Fofana**, militant de ce mouvement. Selon les informations communiquées, le 22 juin 2004, M. Touré aurait été entendu par les services du Ministère des droits de l'homme. Il ressort de ses déclarations que, de passage à Paris, en provenance de Genève où il avait pris part aux travaux de la soixantième session de la Commission des droits de l'homme, des informations faisant état de menaces contre sa vie lui seraient parvenues depuis la Côte d'Ivoire. Après vérification, il se serait rendu compte du sérieux et de la gravité des menaces et aurait alors saisi Amnesty International ainsi que la Fédération internationale des droits de l'homme et différé son retour. M. Touré aurait finalement regagné Abidjan le 6 juin 2004 et exercerait actuellement ses activités sans aucune entrave. Jusqu'à présent, il n'aurait pas déposé de plainte sur les menaces alléguées. M. Touré aurait indiqué que M. Fofana serait en rupture de ban avec le MIDH suite à la publication dans les colonnes d'un journal français, avant qu'ils ne soient rendus publics, des résultats de l'enquête menée par le MIDH sur les événements des 25 et 26 mars 2004. Des personnes s'étant mises à sa recherche, il aurait rallié la ville de Man dans la zone contrôlée par les rebelles avant de revenir à Abidjan pour solliciter l'obtention d'un visa et d'un asile politique en Europe.

## **Cuba**

### **Comunicaciones enviadas**

145. El 16 de junio de 2005, la Representante Especial, junta con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un comunicación en

relacion con los tres periodistas polacos; **Seweryn Blumsztajn**, del diario *Gazeta Wyborcza*, **Jerzy Jurecki**, del diario regional *Tygodnik Podhalanski* y **Wojciech Rogasin**, de *Newsweek Polonia*, su traductor **Maciej Sarna**, **Francesco Battistini**, corresponsal del diario italiano *Corriere della Sera*, **Kart Schwarzenberg**, senador checo, **Arnold Vaatz**, diputado alemán y **Boguslaw Sonik** y **Jacek Protasiewica**, ambos diputados europeos. Según la información recibida, en la noche del 19 al 20 de mayo de 2005, los Sres. Blumsztajn, Jurecki, Rogasen y Sarna fueron detenidos en La Habana. La policía cubana les habría detenido en su hotel, ubicado cerca del aeropuerto de la capital y luego habrían sido trasladados al aeropuerto y expulsados del país. El Sr. Battistini habría llegado a Cuba el 19 de mayo y habría sido detenido y expulsado el día siguiente. En la misma fecha habrían sido expulsados los Sres. Schwarzenberg y Vaatz. Los dos diputados europeos, Sres. Boguslaw Sonik y Jacek Protasiewica habrían sido expulsados justo después de su llegada, el 17 de mayo. La Sra. Caferri, por su parte, habría sido detenida en su hotel el 21 de mayo y expulsada el día siguiente. A tenor de lo informado, las personas mencionadas habían llegado a Cuba para participar en la Asamblea para la Promoción de la Sociedad Civil en Cuba (APSC), una agrupación de 365 organizaciones de la sociedad civil con el objetivo de instaurar la democracia en el país. Se expresaron temores que las expulsiones y las deportaciones estuvieran relacionadas con la cobertura del APSC que iban a llevar a cabo.

146. El 26 de julio 2005, la Representante Especial, junto con el Relator Especial sobre la promoción y protección de la libertad de expresión y opinión, La Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y el Relator Especial sobre la tortura envió un llamamiento urgente en relación con al menos 33 personas quienes fueron arrestadas el 22 de julio de 2005 en La Habana por miembros de los servicios de seguridad, cuando se disponían a participar pacíficamente en una manifestación convocada ante la Embajada de Francia por la organización autodenominada **Asamblea por la Promoción de la Sociedad Civil (APSC)** para demandar la liberación de opositores políticos. 24 personas habrían sido liberadas y las siguientes nueve continuarían en detención: Santiago Valdeolla Pérez, Julio César López Rodríguez, Francisco Mouré Saladrigas; de 46 años de edad; delegado de la APSC por La Habana. Oscar Mario González, Miguel López Santos, Jesús Adolfo Reyes; 44 años de edad; delegado adjunto de la APSC por la Capital, Raúl Martínez Prieto, Ricardo Medina Salabarría; dirigente de la APSC y René Gómez Manzano; de 62 años de edad; vice-presidente de la APSC. Se afirmó que estas personas fueron conducidas luego de su arresto a los locales del Departamento Técnico de Investigaciones (DTI) del Ministerio del Interior. Se ignora su actual paradero.

147. El 3 de agosto de 2005, la Representante Especial, junta con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión juntamente con el Presidente del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento urgente en relación con el Sr. **Oscar Mario González**, quien fue objeto de un llamamiento urgente enviado por la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la tortura, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Representante Especial del Secretario-General para los defensores de los derechos humanos el 26 de julio de 2005. De conformidad con las nuevas informaciones recibidas, el Sr. Oscar Mario González, periodista de la agencia de noticias independiente Grupo de Trabajo Decoro, fue arrestado por agentes policiales el 22 de julio de 2005 aproximadamente a las 09.00 horas en la vía pública, a una distancia de 100 metros de su domicilio situado en el barrio Miramar, Municipio Playa, La Habana. Luego de ser conducido a tres comisarías de policía

diferentes, fue trasladado a la comisaría de Miramar, donde se encuentra actualmente. Las autoridades policiales no habrían permitido a su esposa entregarle alimentos ni verle, aunque sí permitieron la entrega de ropa y de artículos de aseo. Los motivos del arresto no han sido comunicados. Se informo también que la detención del periodista González podría estar relacionada con su asistencia y la cobertura que prestó como reportero al congreso de la organización denominada Asamblea para Promover la Sociedad Civil en Cuba (APSC), en mayo de 2005. Sin embargo, no se le había presentado acusación formal alguna. Ningún tribunal estaría considerando revisar la legalidad de su detención.

148. El 1 de septiembre 2005, la Representante Especial, junto con el Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la tortura y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión envió un llamamiento urgente en relación con el Sr. **Oscar Mario González**, quien fue objeto de un llamamiento urgente enviado por la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la tortura, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Representante Especial del Secretario-General para los defensores de los derechos humanos el 26 de julio de 2005. De conformidad con las nuevas informaciones recibidas, el Sr. Oscar Mario González, periodista de la agencia de noticias independiente Grupo de Trabajo Decoro, fue arrestado por agentes policiales el 22 de julio de 2005 aproximadamente a las 09.00 horas en la vía pública, a una distancia de 100 metros de su domicilio situado en el barrio Miramar, Municipio Playa, La Habana. Luego de ser conducido a tres comisarías de policía diferentes, fue trasladado a la comisaría de Miramar, donde se encuentra actualmente. Las autoridades policiales no habrían permitido a su esposa entregarle alimentos ni verle, aunque sí permitieron la entrega de ropa y de artículos de aseo. Los motivos del arresto no han sido comunicados. Se informa también que la detención del periodista González podría estar relacionada con su asistencia y la cobertura que prestó como reportero al congreso de la organización denominada Asamblea para Promover la Sociedad Civil en Cuba (APSC), en mayo de 2005. Sin embargo, no se le ha presentado acusación formal alguna. Ningún tribunal estaría considerando revisar la legalidad de su detención. De conformidad con las informaciones recibidas, el Dr. Oscar Elías Biscet Gonzáles, médico de profesión y uno de los fundadores de la Fundación Lawton de Derechos Humanos, una organización humanitaria encaminada a promover y exigir en Cuba la defensa de todos los derechos fundamentales, , estaría siendo detenido en condiciones que representan una seria amenaza para su salud, su integridad física y psíquica, su seguridad, y aun para su vida. El Sr. Biscet Gonzáles ha sido el objeto de un llamamiento urgente enviado el 19 de mayo de 2003 por el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, la Representante Especial del Secretario-General para los defensores de los derechos humanos y el Relator Especial sobre la independencia de magistrados y abogados. Desde su último arresto el 6 de diciembre de 2002, habría perdido 18 kilos de peso, es decir un cuarto de su peso total. Habría perdido además casi toda su dentadura y padecería de gingivitis; gastritis; úlceras estomacales; hipertensión arterial; y elevada tasa de colesterol. Aunque su estado psicológico no había sido examinado por un especialista, estaría padeciendo de un grado agudo de stress y ansiedad. Se afirmó que el Dr. Biscet González, quien se encuentra actualmente en la prisión de Combinado del Este, sería trasladado pronto a la prisión Kilo Cinco y Medio de Pinar del Río, donde las condiciones de su detención serían aún peores. Este centro de detención se encuentra a más de 162 kilómetros de su domicilio. El Dr. Biscet Gonzáles había pasado ya siete meses en dicha prisión en situación de incomunicado y confinado en una celda de castigo de tres metros cuadrados; oscura; con

elevada temperatura, piso de cemento, y deficiente ventilación. Se le habría prohibido el acceso a material de lectura y a alimentos proveídos por sus familiares. Además, se le habría mantenido semidesnudo en la celda, al haberse negado a portar el uniforme de los prisioneros. También se le ubicó en una celda de castigo durante los dos primeros meses que pasó en la prisión de Pinar del Río. Se señaló que el Grupo de Trabajo sobre la Detención Arbitraria, en su Opinión N° 17/2003 (Cuba), consideró que la detención del Dr. Biscet González era arbitraria. Actualmente, se expresaron serios temores por su integridad física y psíquica, por su seguridad y por su vida.

### **Comunicaciones recibidas**

149. Por carta de 1 de julio de 2005, la Misión permanente de Cuba ante las Naciones Unidas, transmitió la información siguiente en relación con la comunicación del 16 de junio de 2005 sobre tres periodistas polacos, un senador checo, uno alemán y dos diputados europeos. El gobierno informo que las personas incluidas en la comunicación no fueron detenidas, sino reembarcadas a sus puntos de origen por haber violado las disposiciones migratorias cubanas y haber entrado ilegalmente en el país. El gobierno informo que el reembarque de cada una de las personas fue decidida por las autoridades competentes tras verificar que pretendían ingresar violando los derechos y restricciones sobre el uso de la visa turística cubana. Según el gobierno, la participación en eventos, reuniones, cursos, actividades de negocios necesita requerimientos especiales de visado que no fueron cumplidos por las personas identificadas y no fue presentada ninguna queja acerca del proceder de las autoridades cubanas.

150. Por carta del 9 de agosto de 2005, la Misión permanente de Cuba ante las Naciones Unidas, transmitió la información siguiente sobre las detenciones de los Sres. **Santiago Valdeolla Pérez, Julio César López Rodríguez, Francisco Mouré Saladrigas, Oscar Mario González, Miguel López Santos, Jesús Adolfo Reyes, Raúl Martínez Prieto, Ricardo Medina Salabarría, René Gómez Manzano** detenidos el día 22 de julio de 2005. El gobierno informo que las personas detenidas no estaban ejerciendo un derecho reconocido en virtud de los instrumentos internacionales de derechos humanos sino que cumplían, bajo financiamiento e instrucciones de la Sección de intereses de los Estados Unidos en La Habana, acciones dirigidas a fabricar pretextos ilegales al recrudecimiento de la política del Gobierno de Estados Unidos contra el pueblo cubano. El gobierno informo que la alegación incluida en la comunicación era falsa en el sentido que habría tenido lugar una “manifestación pacífica” en los alrededores de la Embajada de Francia dado que en varias ocasiones este tipo de manifestación a dado lugar a acciones violentas contra sedes diplomáticas en La Habana. El gobierno informo que las personas arrestadas habían sido puestas a disposición de las autoridades competentes cubanas y serán juzgadas bajo el respeto estricto del principio de debido proceso penal y acorde con la legislación penal vigente y no se había presentado queja de maltratos durante las detenciones y es infundada la preocupación en la comunicación respecto al riesgo de padecer torturas o cualquier otra forma de malos tratos.

151. Por carta con fecha de 23 de agosto de 2005, la Misión permanente de Cuba ante las Naciones Unidas transmitió la información siguiente con relación a la comunicación del 26 de julio de 2005 sobre el caso del Sr. **Oscar Mario González**. El Gobierno considera que la nota del 9 de agosto dio debida respuesta a las alegaciones contenidas en el llamamiento urgente del 26 de julio del 2005 y por lo tanto espera que esta comunicación sea discontinuada.

152. Por carta del 26 de septiembre de 2005, la Misión permanente de Cuba ante las Naciones Unidas, transmitió la información siguiente en relación con la comunicación del 1 de septiembre de 2005 sobre la situación del Sr. **Oscar Elías Biscet González**. El Gobierno llamó la atención sobre el hecho de que había presentado información sobre la situación del Sr. Biscet González en previas ocasiones y que en su 32º período de sesiones, el Grupo de Trabajo sobre las Comunicaciones de la Subcomisión de Promoción y Protección de los Derechos Humanos decidió discontinuar la comunicación relativa a la situación del Sr. Biscet por no contar con elementos que demostraran la existencia de un caso de violaciones de derechos humanos. El Gobierno consideró que la comunicación es parte de una campaña concertada por los Estados Unidos de América con intenciones de manipulación política. El Sr. Biscet González fue sancionado el 7 de abril de 2003 por el Tribunal Popular Provincial de Ciudad de la Habana en la causa 15/03 a 25 años de privación de libertad en virtud de la ley 88/99, de los cuales ha cumplido 2 años y cuatro meses. Actualmente se encuentra en la prisión del Combinado del Este. Ha mantenido una conducta de violación sistemática del reglamento disciplinario del penal, motivo por el cual, las autoridades del penal, de acuerdo con el reglamento vigente y de conformidad con las Reglas mínimas para el tratamiento de los reclusos adoptadas por Naciones Unidas en 1955, han dispuesto que el Sr. Biscet cumpla con las medidas disciplinarias correspondientes. En lo que se refiere a su estado de salud, el Sr. Biscet posee antecedentes de hipertensión arterial, dislipidemia y gastritis que no se han podido confirmar por su negativa a recibir asistencia médica, aunque tiene indicado un tratamiento con clortalidona y atenolol que por decisión propia se automedica a partir del suministro familiar al rechazar los que se le entregan por los médicos del penal. A pesar de ello el Sr. Biscet recibe cada 45 días visita familiar a la que asiste su esposa, hermano y padres y mantiene una comunicación postal y telefónica con su esposa para la cual dispone de 100 minutos mensuales. El Gobierno considera que tanto su esposa como el Sr. Biscet mantienen vínculos con la Sección de intereses de los Estados Unidos en la Habana y no pueden ser considerados como defensores de los derechos humanos. El Sr. Biscet ha sido juzgado bajo el respeto al debido proceso penal. Ningún de sus derechos ha sido violado y su estado de salud es bueno.

No se ha presentado queja a las entidades nacionales de cualquier forma de maltrato durante la detención, juicio o permanencia en prisión del Sr. Biscet. Así mismo es infundada la preocupación manifestada en la comunicación respecto al riesgo de padecer torturas o cualquier otra forma de malos tratos.

### **Observations**

153. The Special Representative thanks the Government for its prompt replies to her communications. While she acknowledges the Government's position she remains concerned by ongoing arrests, detentions and harsh sentencing of human rights defenders in Cuba, which appear to be deliberate efforts on the part of the authorities to inhibit their legitimate activities in defense of human rights.

154. With regard to the case of Oscar Elias Biscet Gonzalez the Special Representative notes the position of the Government. However she urges the Government of Cuba to take note of the opinion of the Working Group of Arbitrary Detention 17/2003, where it was established that the detention of Oscar Elias Biscet Gonzalez was effected in relation to his organisation of a

peaceful protest, the right to do so which is a right guaranteed under the Universal Declaration of Human Rights.

## Democratic Republic of the Congo

### Communications envoyées

155. Le 7 janvier 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant la situation des membres de **quatre organisations non gouvernementales**, l'Association africaine des droits de l'homme (ASADHO)/section du Katanga, du Centre des droits de l'homme et du droit humanitaire (CDH), du Groupe évangélique pour la non-violence (GANVE) et de la Nouvelle dynamique syndicale (NDS), tous regroupés sous la Concertation des associations de défense des droits de l'homme du Katanga (CADHOK). Selon les informations reçues, en octobre, novembre et décembre 2004, ces quatre organisations auraient dénoncé dans des communiqués conjoints l'exploitation abusive des ressources minières de la province du Katanga, notamment par une usine de la SOMIKA (Société minière du Katanga) et la pollution de la nappe phréatique de Kimilolo qui alimente de 70 % de la population de Lubumbashi en eau potable découlant de ses activités. À la suite de cette dénonciation, le Vice-Ministre des mines, dans une lettre adressée à la SOMIKA courant décembre 2004, aurait demandé à cette dernière de mettre fin à ses activités à Kimilolo. Cette décision aurait provoqué le mécontentement de l'entreprise et ses 350 salariés, pour la plupart journaliers, regroupés au sein de l'Association des exploitants miniers et artisanaux du Katanga (EMAK). Le 2 décembre 2004, M. Jean-Pierre Muteba, Secrétaire général de la NDS, aurait dû être hospitalisé à Lubumbashi, à la suite d'une tentative d'empoisonnement. Il aurait été transféré à Kinshasa pour y recevoir les soins nécessaires, et aurait pu revenir à Lubumbashi par la suite, sa vie n'étant plus en danger. M. Muteba aurait déjà été arrêté et détenu du 18 au 29 mars 2003, à la suite d'une déclaration qu'il avait faite à la presse, dénonçant les pillages des ressources naturelles dans la province de Katanga. Le 16 décembre 2004 au soir, un groupe d'individus se serait présenté au siège de l'ASADHO/Katanga. Ces hommes auraient affirmé à la sentinelle qu'ils recherchaient M. Marc Walu, directeur financier de l'ASADHO/Katanga. Toutefois, ils auraient déclaré qu'ils «reviendraient le chercher plus tard», alors même que la sentinelle les avait informés que M. Walu se trouvait dans les bureaux. Le 21 décembre 2004, cinq personnes, s'étant présentées comme des cadres de la SOMIKA, auraient fait irruption à la Maison Ekumène, organisation religieuse membre du GANVE, et auraient menacé deux volontaires espagnoles, qui avaient relayé les communiqués de la CADHOK et du GANVE relatifs à la SOMIKA dans leur dernier bulletin. Le 23 décembre 2004, l'ASADHO/Katanga, le GANVE et la NDS auraient reçu un courrier électronique anonyme en provenance de l'adresse «First true» contenant des menaces explicites à leur encontre et celle de leur famille. Le même jour, M. Golden Misabiko, Président honoraire de l'ASADHO/Katanga, aurait été suivi par deux personnes dans une voiture alors qu'il se déplaçait en voiture avec ses enfants à Allilac Center à Lubumbashi. Alors qu'il s'était arrêté devant un magasin d'alimentation (le Kalu Food Shop en Revolution Avenue), il aurait reconnu l'une des personnes le suivant comme un des agents de l'Agence nationale de renseignements (ANR) qui l'avait arrêté en 2001. M. Misabiko aurait interpellé l'homme qui aurait tout d'abord affirmé n'avoir plus aucun lien avec les services de sécurité. Puis, devant l'insistance de M. Misabiko, il lui aurait répondu: «cette fois-ci cela sera plus grave». Depuis cette date, M. Misabiko se serait

aperçu qu'il était constamment surveillé à son domicile et dans ses déplacements. Le 27 décembre, M. Misabiko aurait appris que plusieurs dizaines de membres de l'ANR auraient reçu l'instruction de suivre tous ses mouvements et que l'ANR et la Détection militaire des activités anti-patrie (DEMIAP) aurait décidé de l'arrêter le 15 ou le 16 janvier 2005. Le 28 décembre 2004, l'ASADHO/Katanga, le GANVE, le CDH et la Ligue congolaise de sauvegarde des droits des consommateurs (LISCO) auraient publié, dans le cadre de la CADHOK, un communiqué de presse conjoint dénonçant le refus de la SOMIKA d'obtempérer à la décision du Vice-Ministre, ainsi que les menaces perpétrées à l'encontre de leurs membres. Le 29 décembre 2004, deux responsables de l'EMAK se seraient présentés sur le lieu de travail de M. Jean-Marie Kabanga, membre du GANVE. Ce dernier aurait cependant pu sortir sans être remarqué. Quelques heures plus tard, des personnes non identifiées auraient été aperçues dans le quartier où réside M. Kabanga interrogeant ses voisins sur son adresse exacte et ses horaires de travail. Le 31 décembre 2004, l'ASADHO, le GANVE, le CDH et la NDS auraient reçu un second courrier électronique de menace, provenant à nouveau de l'adresse «First true», et rédigé comme suit: «Vous ne voulez pas être raisonnables. Certains de vos amis l'ont été. Nous connaissons chacun d'entre vous, vos conseils d'administration respectifs. Nous vous disons qu'il y aura des actions concrètes et vous risquez de ne plus voir vos enfants. Nous connaissons votre comportement et votre emploi du temps [...] Si vous avez des femmes et des enfants, pensez une dernière fois à eux. Dernier avertissement et ceux qui vous entêtent ne vont pas vous protéger.» Le même jour, le CDH et la NDS auraient reçu un autre courrier électronique d'un individu prétendant faire partie d'un complot organisé par la SOMIKA, avec la complicité de l'EMAK. Cette personne aurait cherché à les mettre en garde contre des tentatives d'empoisonnement à l'encontre des personnes citées par le second courrier électronique de «First true». Des craintes ont été exprimées que ces menaces à l'encontre des membres de l'ASADHO, de la NDS, du GANVE et du CDH et de leurs familles visent à décourager les activités menées par ces organisations en faveur du droit à la santé de la population de Lubumbashi, notamment, soient liées au rôle qu'elles ont joué dans la lettre du Vice-Ministre des mines à la SOMIKA, demandant à cette dernière de mettre fin à ses activités à Kimilolo.

156. Le 7 janvier 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé un appel urgent concernant M<sup>e</sup> **Franck Mulenda**, avocat auprès de la cour d'appel de Kinshasa/Gombe et consultant du Bureau du Haut-Commissariat aux droits de l'homme en République démocratique du Congo dans le cadre de la mission des bailleurs de fonds sur l'audit de la justice, qui aurait reçu des menaces de mort. Selon les informations reçues, le 26 décembre 2004, aux environs de 22 heures, alors qu'il rentrait à son domicile, M<sup>e</sup> Mulenda aurait vu des hommes en uniforme à bord d'une Jeep de marque Cherokee, nouveau modèle, de couleur claire et sans plaque d'immatriculation, lui barrer la route sur l'avenue Bongolo, non loin de l'Université Kimbanguiste, dans la commune de Kasa-Vubu à Kinshasa. Sous prétexte qu'il les avait heurtés avec sa voiture, ces hommes, après avoir dispersé les personnes accourues à son secours en leur brandissant leurs armes, l'auraient fait descendre de sa voiture, l'auraient roué de coups et se seraient emparés de tous ses objets de valeur et d'une importante somme d'argent. L'abandonnant avec un visage tuméfié, l'un de ses agresseurs l'ayant identifié comme l'avocat du colonel Eddy Kapend (ancien aide de camp du défunt président Laurent-Désiré Kabila condamné à mort par l'ex-Cour d'ordre militaire dans le procès des présumés assassins du président Kabila), lui aurait signifié «qu'ils allaient le tuer». Des craintes ont été exprimées que

l'agression contre M<sup>e</sup> Mulenda et les menaces de mort faites à son encontre soient liées à ses activités d'avocat et de défenseur des droits de l'homme.

157. Le 26 janvier 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant la situation de M. **Sheldon Munihire Bihira**, Directeur général de l'ONG Action sociale pour la paix et le développement (ASPD), de M. **Richard Muhindo Bayunda**, Directeur général de l'ONG Centre de recherche sur l'environnement, la démocratie et les droits de l'homme (CREDDHO), et de M<sup>e</sup> **Charles Mukandirwa Wetemwami**, coordonnateur de l'Union pour la paix permanente (UPP) et chargé des relations publiques de la Synergie pour la défense des droits de l'homme (SYDHO) du Nord-Kivu. Selon les informations reçues, le 10 décembre 2004, la Société civile du Nord-Kivu, dont les personnes susnommées sont des membres actifs, aurait publié un rapport («Le Nord-Kivu à la dérive: document d'analyse contextuelle de la situation de la province du Nord-Kivu») dénonçant la distribution illégale d'armes dans la province et en identifiant les responsables. Ce premier rapport aurait été suivi dans les jours suivants par deux autres rapports portant sur des sujets similaires. Le 12 décembre, M<sup>e</sup> Mukandirwa aurait été interviewé au nom des organisations des droits de l'homme signataires desdits rapports par la radio Canal Afrique et la BBC au sujet de la distribution d'armes. Le 13 décembre 2004, trois hommes non identifiés seraient venus chercher M. Munihire chez lui. L'ayant manqué, ils auraient mis en garde son épouse contre les activités politiques de son mari. Le 29 décembre 2004, vers 19 heures, M. Munihire aurait reçu un appel téléphonique anonyme. Son interlocuteur l'aurait menacé pour avoir participé aux deux rapports. Vers 1 heure du matin la même nuit, des inconnus auraient tenté sans succès de forcer la porte de M. Munihire. Le 1<sup>er</sup> janvier 2005, vers 20 heures, M. Munihire aurait reçu un nouvel appel téléphonique anonyme lui demandant s'il était bien Sheldon Munihire. Effrayé par ces menaces, le 5 janvier 2005 il se serait enfui de Goma pour Kampala. Le 27 décembre 2004 à 22 heures, M<sup>e</sup> Mukandirwa aurait reçu un appel anonyme. Son interlocuteur l'aurait menacé de mort après lui avoir rappelé qu'il était signataire de tous les rapports dénonçant la distribution illicite d'armes. Il lui aurait également rappelé les deux interviews accordés par M<sup>e</sup> Mukandirwa et l'aurait menacé de lui trancher la tête pour qu'il se taise définitivement. Le 31 décembre 2004 à 18 heures, deux hommes habillés en civil mais armés se seraient présentés au domicile de M<sup>e</sup> Mukandirwa, où ils auraient trouvé son jeune frère. Ils lui auraient demandé s'il connaissait M<sup>e</sup> Mukandirwa. Ce dernier, informé de la situation sécuritaire, aurait nié. Les visiteurs auraient alors fouillé sa parcelle en vain. Informé de ces événements, M<sup>e</sup> Mukandirwa aurait commencé à vivre dans la clandestinité et se serait enfui de Goma le 7 janvier 2005, pour se rendre en Ouganda. Le 28 décembre 2004 à 18 heures, M. Bayunda aurait reçu un coup de téléphone anonyme. Son interlocuteur lui aurait signifié qu'il savait que M. Bayunda mobilisait les défenseurs des droits de l'homme pour tenir des réunions au cours desquelles des rapports incluant son nom et ceux de ses complices étaient cités et aurait menacé Bayunda de l'abattre. Le 1<sup>er</sup> janvier 2005, trois hommes dans une voiture, vraisemblablement des agents des renseignements, auraient demandé à des garçons dans le voisinage de M. Bayunda où celui-ci habitait. Les garçons auraient déclaré qu'ils ne le connaissaient pas. Le lendemain, M. Bayunda aurait quitté Goma pour l'Ouganda, où il se trouverait aujourd'hui.

158. Le 6 juin 2005, la Représentante spéciale du Secrétaire général, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire et le Rapporteur spécial

sur la question de la torture, a envoyé un appel urgent concernant la situation des personnes suivantes: M. **Timothée Mbuya**, directeur de publication à l'Association africaine de défense des droits de l'homme (ASADHO)/section du Katanga, M. **Hubert Tshiswaka**, directeur exécutif de l'Action contre l'impunité pour les droits de l'homme (ACIDH), M. **Peter Kaodi**, directeur de publication à l'ACIDH, M. **André Murefu**, membre de l'ONG Amis de Dag pour les droits de l'homme, M. **Emmanuel Impula**, membre de l'ACIDH, M. **Kapenda**, membre du Centre des droits de l'homme et du droit humanitaire (CDH). Selon les informations reçues, ces six personnes auraient été arrêtées le 3 juin 2005 à Lubumbashi, alors qu'elles organisaient un rassemblement pacifique afin de demander la libération de M. Golden Misabiko, Président d'honneur de l'ASADHO/Katanga, détenu dans les locaux de l'Agence nationale de renseignements (ANR-Katanga) depuis le 2 juin 2005. Alors qu'ils manifestaient devant le bureau de la direction provinciale de l'ANR-Katanga, des policiers de garde et des agents de l'ANR les auraient battus puis conduits au cachot de l'ANR où ils seraient toujours détenus à l'heure actuelle.

159. Le 6 juin 2005, la Représentante spéciale du Secrétaire général, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, a envoyé un appel urgent concernant la situation de M. **Golden Misabiko**, Président d'honneur de la section de l'ASADHO dans la province du Katanga. Selon les informations reçues, le 2 juin 2005, vers 7 heures du matin, alors qu'il déposait sa fille à l'école, dans le quartier Makutano à Lubumbashi (Katanga), M. Golden Misabiko aurait été enlevé par trois agents armés de l'Agence nationale de renseignements (ANR-Katanga) et aurait été conduit à la direction provinciale, où il se trouverait actuellement en détention. Son arrestation aurait été ordonnée par les directeur provincial et directeur adjoint chargé des opérations de l'ANR. Cette arrestation serait en rapport avec son enquête sur les poursuites dont ferait l'objet M. André Tshombe, président national du parti politique CONACO accusé d'avoir préparé un mouvement de sécession du Katanga dans le dossier de «la sécession au Katanga» et en rapport avec sa dénonciation publique de l'absence de fondement de ces accusations. L'arrestation de M. André Tshombe aurait elle-même été ordonnée par les mêmes hommes que ceux ayant ordonné celle de Golden Misabiko, deux hommes dont l'implication dans des arrestations et détentions arbitraires, ainsi que des actes de torture, aurait déjà été dénoncés par l'ASADHO/Katanga. Des craintes ont été exprimées que cette arrestation ne constitue des représailles directes contre les activités de défense des droits de l'homme que mène M. Misabiko. Ces faits surviennent après une tentative d'enlèvement à son encontre en mai dernier qui a fait l'objet des actions urgentes mentionnées ci-dessus.

160. Le 30 juin 2005, la Représentante spéciale du Secrétaire général, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire et le Rapporteur spécial sur la question de la torture, a envoyé un appel urgent concernant la situation de M. **Anaclet Tshishiku Mukadi**, défenseur judiciaire auprès du tribunal de grande instance de Likasi et Secrétaire chargé de la justice de l'Union pour la démocratie et le progrès social (UDPS)/Fédération de Likasi. Selon les informations reçues, M. Anaclet Tshishiku Mukadi a été arrêté à Likasi, lundi 13 juin 2005 à 14 heures, par les agents de l'ANR et transféré clandestinement à Lubumbashi, dans une cellule située sur l'avenue Kapenda. Il y est détenu depuis cette date sur ordre de M. Jules Katumbwe, directeur de l'ANR/Katanga, sans avoir le droit de recevoir des visites. Il aurait également été privé du droit de s'alimenter durant trois jours à compter de son arrestation. Au vu de la détention incommunicado de M. Mukadi, des

craintes ont été exprimées quant à son intégrité physique et quant au fait que son arrestation puisse être liée à ses activités de défense des droits de l'homme.

161. Le 13 juillet 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant la situation de M. **Dismas Kitenge**, président du Groupe LOTUS, une organisation de défense des droits de l'homme basée à Kisangani, et animateur actif du collectif qui avait déjà fait l'objet d'une lettre d'allégation de la part de la Représentante spéciale du Secrétaire général à l'automne 2002. Selon les informations reçues, dans la nuit du 2 au 3 juillet 2005 vers 2 heures du matin, des hommes armés en uniforme seraient entrés par effraction au domicile de M. Kitenge. Ils auraient emporté tous les meubles de valeur puis se seraient enfuis en tirant des coups de feu en l'air et en menaçant la famille de M. Kitenge de revenir si celui-ci n'abandonnait pas ses activités «politiques». Les membres de la Garde spéciale de sécurité présidentielle (GSSP), postés à 100 mètres de son domicile, n'auraient pas réagi en dépit des coups de feu. D'autre part, une plainte contre X aurait été déposée par M. Kitenge auprès de la police et du tribunal de Kisangani, mais aucune suite n'aurait été donnée par les autorités. Des craintes ont été exprimées que cette attaque ne vienne faire obstruction aux activités de M. Kitenge en faveur des droits de l'homme. En particulier, elle survient dans le contexte d'une série de rencontres avec les autorités locales, initiées par la société civile, à la suite des manifestations du 30 juin 2005 à Kisangani, jour de l'indépendance nationale, considéré comme la fin de la période de transition. Lors de ces manifestations de protestation contre la prolongation de cette période jusqu'en décembre 2005 et réclamant le départ du Président Joseph Kabila, de nombreux actes de violence auraient été perpétrés par les forces de l'ordre, notamment la GSSP. Selon les informations reçues, les associations de défense des droits de l'homme de Kisangani, en particulier M. Kitenge, auraient au cours de ces rencontres dénoncé les violations des droits de l'homme commises par des membres de la GSSP, ainsi que les menaces et les provocations faites par certains membres du Parti du Président de la République (PPRD) à Kisangani contre les défenseurs des droits de l'homme. Le 5 juin 2005, des cadres du parti présidentiel avaient rencontré M. Kitenge au siège du Groupe LOTUS, lui adressant notamment une mise en garde et lui demandant de modérer son langage.

162. Le 18 juillet 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant l'**Association africaine de défense des droits de l'homme (ASADHO), section du Katanga**. Selon les informations reçues, le 13 juillet 2005, environ 300 personnes auraient organisé une marche à Lubumbashi contre l'ASADHO/Katanga qui se serait terminée devant les bureaux de l'Association, où les manifestants seraient restés pendant près d'une heure scandant des slogans affirmant que l'ASADHO/Katanga est «une association tribale qui travaille contre les intérêts de la province du Katanga» et que si elle «continue à s'attaquer à la société Anvil Mining, [ils] reviendron[t] pour saccager ses bureaux [...]». Les manifestants auraient eu des banderoles mentionnant que l'ASADHO était «corrompue», et qu'ils la mettaient «en garde pour la dernière fois», lui demandant de «faire attention». Les membres de l'ASADHO/Katanga auraient été, de ce fait, retenus à l'intérieur de leur bureau. Des menaces similaires à celles scandées par les manifestants auraient également été diffusées par courrier électronique. Cette manifestation serait en relation avec le communiqué diffusé par l'ASADHO/Katanga le 1<sup>er</sup> juillet 2005, intitulé «Les crimes de guerre de Kilwa doivent être punis». L'Association y aurait dénoncé le manque de volonté du

gouvernement de transition pour punir les auteurs des pillages, viols et exécutions sommaires perpétrés à l'encontre de la population civile lors de la reprise, le 18 octobre 2004, de la ville de Kilwa – occupée jusqu'alors par des troupes du Mouvement révolutionnaire pour la libération du Katanga (MRLK) – par les forces armées congolaises. Selon les informations reçues, cette marche aurait été autorisée par le Gouverneur de la province du Katanga, et le maire de Lubumbashi. Elle aurait reçu l'appui financier d'un homme d'affaires proche de la société minière Anvil Mining, accusée par l'ASADHO/Katanga d'avoir loué du matériel de transport aux troupes armées congolaises lors de la répression de la rébellion de Kilwa en octobre 2004. Il a également été rapporté que le commandant des services spéciaux de la police nationale, que l'ASADHO/Katanga avait appelé pour assurer la protection de ses biens et de ses membres, n'aurait pas réagi. Des craintes ont été exprimées pour la sécurité de l'Association et de ses membres, en particulier: M. **Jean-Claude Katende**, Président, M. **Freddy Kitoko**, Vice-Président, MM. **Georges Kapiamba**, **Marc Walu** et **Timothee Mbuya**, membres du comité directeur, M. **Golden Misabiko**, Président d'honneur, M. **Bertrand Kabembela**, M. **Jean-Claude Bakatunyingela**, M<sup>me</sup> **Vela Musimisa**, M<sup>me</sup> **Marie-Rose Bangambila** et M. **Kabasele Ntumba**, responsables de services. En effet, ces faits semblent s'inscrire dans le cadre d'un harcèlement récurrent à l'égard des membres de l'ASADHO et des défenseurs des droits de l'homme dans la province du Katanga. Ils surviennent après que, le 7 juillet 2005, l'attaché de presse du Gouverneur de la province eut déclaré que «l'ASADHO/Katanga est (...) une organisation qui fait de la politique pour fragiliser les leaders katangais et diviser les fils du Katanga. Elle doit être maintenant traitée durement et comme telle par tout le monde; (...) [c'est] une organisation corrompue qui travaille contre les intérêts de la province du Katanga, (...) [dont le but est] de plonger la province dans la misère (...) [et qui] déstabilise le Katanga parce qu'elle est soutenue par la communauté internationale. Les choses ne doivent plus continuer ainsi, nous devons réagir (...)». Ces propos auraient été diffusés sur l'antenne de la radio officielle RTNC/Katanga, lors de l'émission «Panorama».

163. Le 5 septembre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant la **Ligue des électeurs (LE)** et certains de ses membres, en particulier M. **Paul Nsapu**, son président et porte-parole du cadre de concertation entre la Commission électorale indépendante (CEI) et la société civile depuis novembre 2004, coordonnateur principal du Réseau national d'observation des élections (RENOSEC) depuis mai 2005 et animateur du Réseau d'observation des manifestations et des libertés publiques depuis juin 2005. Selon les informations reçues, M. Paul Nsapu, qui avait été contraint de quitter la République démocratique du Congo en juillet 2005 en raison de graves menaces à son encontre, continuerait de faire l'objet d'une campagne de discrédit et sa famille, restée en République démocratique du Congo, serait dans l'insécurité. Selon les informations reçues, le 29 août 2005, la Ligue des électeurs aurait reçu deux appels anonymes dont les auteurs se sont présentés comme membres des services de sécurité, et auraient injurié et menacé de mort M. Nsapu et sa famille. M. Sabin Banza, Vice-Président de la LE, et M. Guillaume Kabeya, chargé de la formation à la LE, auraient également reçu des appels téléphoniques de menaces, en particulier à l'encontre de Paul Nsapu. Le même jour, l'épouse de M. Nsapu aurait également reçu un appel téléphonique lui indiquant qu'elle était suivie et qu'ils «connaissaient tous ses faits et gestes». Des craintes ont été exprimées que ces menaces ne représentent une forme de représailles, liées à l'engagement de M. Paul Nsapu pour veiller au respect des droits de l'homme et des libertés fondamentales dans le cadre du processus électoral, notamment ses

prises de position critiques concernant le fonctionnement de la CEI et la publication d'un rapport du RENOSSEC en mars 2005 ainsi que de nombreuses analyses de la LE en rapport avec le processus électoral. Selon les informations reçues, les 14 et 17 janvier 2005, M. Nsapu aurait déjà reçu des menaces téléphoniques à la suite de ses interventions sur des chaînes de télévision privées, durant desquelles il avait exprimé des critiques sur la gestion des élections par les autorités. Des menaces similaires lui auraient été adressées le 24 juin 2005, après son passage à l'émission «Grand Lisolo» sur la chaîne Horizon 33. Par ailleurs, en juin 2005, une campagne de dénigrement à l'encontre de M. Nsapu aurait été menée par des membres d'organes officiels auprès de représentants d'États et d'organisations internationales gouvernementales. Cette campagne aurait aussi eu pour conséquence la suspension par certains bailleurs de fonds de subventions destinées à la LE. Des craintes ont été exprimées quant à la sécurité de M. Nsapu et de sa famille. Ces craintes sont d'autant plus vives que, début juillet 2005, un membre du Parti du peuple pour la reconstruction et la démocratie (PPRD) aurait déclaré en public que, si M. Nsapu avait participé à la manifestation du 30 juin 2005 contre la prolongation de la transition – manifestation au cours de laquelle des participants ont été assassinés –, «on l'aurait abattu sans pitié ou autre forme de procès». Le 16 juillet, un autre membre du même parti aurait déclaré à la radio que M. Nsapu serait «à la solde de l'opposition». Enfin, le 18 juillet 2005, deux inconnus en civil et armés se seraient présentés au domicile de M. Nsapu et auraient menacé son épouse, déclarant qu'ils étaient aux ordres du pouvoir et qu'ils le recherchaient. La Représentante spéciale du Secrétaire général exprime sa plus vive inquiétude à l'égard de ces attaques qui s'inscrivent dans un contexte d'attaques grandissantes contre les défenseurs des droits de l'homme en République démocratique du Congo, en particulier après l'assassinat après des menaces similaires de Pascal Kabungulu Kibembi le 31 juillet dernier.

164. Le 3 août 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur les exécutions extrajudiciaires, sommaires ou arbitraires, a envoyé une communication concernant M. **Pascal Kabungulu Kibembi**. Selon les informations reçues, le 31 juillet 2005, aux environs de 3 heures du matin, trois hommes armés en uniforme et cagoulés se seraient introduits par effraction dans la résidence de Pascal Kabungulu Kibembi à Bukavu. Ils l'auraient traîné hors de sa chambre et exécuté de sang froid après lui avoir dit: «On t'a cherché et aujourd'hui c'est le jour de ta mort». Les hommes auraient également proféré des menaces à l'encontre de ses enfants et emporté l'ordinateur portable de M. Kabungulu. M. Kabungulu était un défenseur des droits de l'homme connu en République démocratique du Congo. En particulier, il avait été pendant plusieurs années le secrétaire exécutif de l'organisation Héritiers de la justice, basée à Bukavu, et le vice-président de la Ligue des droits de la personne dans la région des Grands Lacs, une organisation régionale.

165. Le 5 août 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant la fermeture de l'association Solidarité katangaise (SK) et le harcèlement dont aurait fait l'objet son président national, **Jean-Claude Muyambo Kyassa**. Selon les informations reçues, la décision de fermer l'association Solidarité katangaise aurait été prise par arrêté provincial du Gouverneur le 21 mai 2005, interdisant le fonctionnement de Solidarité katangaise sur toute l'étendue de la province du Katanga, au motif qu'elle «fonctionne comme une association de fait, opérant en marge de la loi, son activité n'étant pas légalement autorisée, ni au niveau national ni au niveau provincial» sur la base de l'article 5 de la loi n° 004/2001, qui stipule qu'«en attendant l'obtention de la

personnalité juridique, l'avis favorable du Ministre ayant dans ses attributions le secteur d'activité visé vaut autorisation provisoire de fonctionnement». Cependant, le 18 juillet 2004, l'association Solidarité katangaise aurait adressé au Ministre de la justice une requête d'obtention de la personnalité juridique, à la suite de laquelle le Ministère avait autorisé le 11 août 2004 le fonctionnement provisoire de l'association en attendant l'octroi de la personnalité juridique par voie d'arrêté ministériel (lettre n° Just. GS/20/593/2004), ce conformément à l'article 5 de la loi précitée. Il nous a été rapporté qu'en vertu de l'alinéa 3 de cet article, «passé un délai de six mois, la personnalité juridique est censée être octroyée». D'autre part, le Chef de division provinciale de la justice et Garde des sceaux du Katanga à Lubumbashi, responsable des cultes et des associations, aurait délivré à Solidarité katangaise le certificat d'enregistrement n° 195/446/04, et le Gouverneur de la province lui-même aurait assisté à l'assemblée générale extraordinaire de Solidarité katangaise le 19 mars 2005, à Lubumbashi. Selon les informations reçues, l'arrêté du 2 mai serait contraire à l'article 23 de la loi n° 004/2001, en vertu duquel le Gouverneur a le pouvoir de suspendre et non d'interdire les activités d'une association dans la province, suspension ne se justifiant qu'au motif de trouble à l'ordre public ou attentat aux bonnes mœurs. Par ailleurs, depuis le 30 avril 2005, M. Jean-Claude Muyambo Kyassa, Président national de Solidarité katangaise, Président du groupe socioculturel Sempya et Bâtonnier du Barreau de Lubumbashi, ferait l'objet de harcèlements divers en raison des actions menées par Solidarité katangaise en faveur de l'éducation civique et de l'éveil de la conscience politique des citoyens. En particulier, les 5, 12 et 21 mai 2005, des agents de l'Agence nationale de renseignements (ANR) auraient à plusieurs reprises interdit à M. Jean-Claude Muyambo Kyassa de se rendre à Kinshasa. Le 11 mai 2005, lors d'une réunion au gouvernorat de province entre le chef de l'Etat et les différents acteurs locaux du Katanga, dont des ONG, les agents de l'ANR lui auraient demandé, alors même qu'il avait été invité par le protocole d'Etat, de quitter la salle avant l'entrée du Président Kabila. Des craintes ont été exprimées que la fermeture de l'association Solidarité katangaise et le harcèlement dont serait l'objet M. Jean-Claude Muyambo Kyassa ne soient en relation avec le travail que fait l'organisation en faveur des droits de l'homme.

166. Le 29 juillet 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la question de la torture, le Rapporteur spécial sur la vente d'enfants, la prostitution d'enfants et la pornographie impliquant des enfants, le Rapporteur spécial sur le droit qu'a toute personne de jouir du meilleur état de santé physique et mentale possible, la Rapporteuse spéciale sur la violence contre les femmes, ses causes et ses conséquences, l'expert indépendant sur la situation des droits de l'homme en République démocratique du Congo et la Rapporteuse spéciale sur la traite des êtres humains, en particulier les femmes et les enfants, a envoyé une communication concernant les cas très répandus de **violence sexuelle indiscriminée et systématique et d'autres formes de violence perpétrées contre des femmes et des filles sur le territoire du pays depuis 1996**. Ils ont réitéré l'inquiétude manifestée à l'occasion de plusieurs communications, notamment une lettre d'allégation envoyée le 9 mars 2005, un appel urgent envoyé le 12 janvier 2005 et une lettre d'allégation envoyée le 11 octobre 2004 concernant des viols collectifs à Bongandanga et Songo Mboyo, envoyés conjointement avec le Rapporteur spécial sur la question de la torture. Selon les informations reçues, des femmes et des filles, et parfois des hommes et des garçons, les plus jeunes âgés de 3 ans, auraient été violés, mutilés, torturés, forcés à l'esclavage sexuel, contraints à l'inceste, au mariage, au travail forcé et au pillage. Tous les groupes armés présents dans le

pays, nationaux et étrangers (RCD-Goma, RCD-ML, Mai Mai, Mudundu 40, MLC, UPC, FNI, FDD et FNL burundais, des groupes armés de Hutus et ex-interahamwe, ainsi que l'armée nationale congolaise, FARDC) seraient responsables de ces crimes. Dans leur communication envoyée au Gouvernement le 11 octobre 2004, ils ont exprimé leur crainte suite aux renseignements reçus selon lesquels, au 21 décembre 2003 à Songo Mboyo et Bongandanga, à Mbandaka, en province d'Équateur, 119 femmes et filles auraient été violées et soumises à d'autres formes de violence sexuelle par un bataillon d'ex-MLC. Le bataillon entier aurait protesté contre le fait qu'il n'avait pas reçu de salaire. Ils ont également exprimé leur préoccupation devant l'absence de réponse de la part du Gouvernement concernant l'investigation et la poursuite pénale des auteurs présumés de ces graves violations des droits de l'homme et la compensation et la réhabilitation des victimes et de leurs familles. Ils redoutent que cela démontre que l'impunité pour la violence contre les femmes et les filles ne soit largement répandue dans le pays. Les allégations de viols massifs en décembre 2003 ne sont qu'un exemple de violence contre les femmes et les filles. L'ampleur exacte de telles violences est difficile à mesurer, principalement à cause du manque d'informations officielles sur ces actes, cela, en raison de l'hésitation des victimes à déposer plainte devant les autorités (parce qu'elles craignent une revanche par les auteurs, la situation est caractérisée par un manque général de sécurité et il existe de forts tabous culturels autour des violences sexuelles) et du manque de confiance envers les autorités afin de désigner comme responsables les auteurs de violences contre les femmes et les filles. Les rapports ont aussi indiqué que la réponse des autorités aux plaintes de ce type de crime a été lente et insatisfaisante pour plusieurs raisons, dont la crainte de la police de revanches par les agresseurs, l'insécurité générale dans le pays, la corruption et le manque de volonté de coopérer avec les autorités appropriées. Ce manque de réponse des autorités a résulté dans l'impunité générale pour les actes de violence contre les femmes et les filles, et cette culture d'impunité aggrave et encourage la suite d'une telle violence. En outre, comme il a déjà été référé dans l'appel urgent du 12 janvier 2005, envoyé conjointement par la Rapporteuse spéciale sur la violence contre les femmes, ses causes et ses conséquences, le Rapporteur spécial sur la question de la torture et le Rapporteur spécial sur le droit à l'alimentation, ils restent concernés par les rapports qui indiquent que les conditions de détention et les prisons ne se sont pas conformes aux normes internationales, et que les prisonnières et détenues du sexe féminin sont sujettes à des violences, y compris sexuelles, pendant leur détention. De plus, leur attention a été attirée sur le fait que des membres de la société civile, spécialement des femmes défenseurs des droits humains, qui luttent contre la violence sexuelle et contre d'autres formes de violence contre les femmes et les filles dans le pays, ont été visées et sont sujettes à toutes formes de harcèlement, y compris à des menaces et à des attaques, ainsi qu'à des actes de violence sexuelle et à d'autres formes de violence. La violence sexuelle généralisée et systématique a eu comme conséquence la diffusion, sans contrôle, du sida et d'autres maladies sexuellement transmissibles, autant à l'intérieur qu'à l'extérieur du pays. Cela a entraîné, entre autres conséquences, une augmentation du nombre d'orphelins et d'enfants nés avec le sida, et une augmentation du nombre de personnes handicapées du fait de leur maladie et empêchées d'avoir toute activité économique qui leur permettrait de subvenir financièrement à leurs besoins. Il a été rapporté que les centres de santé, les cliniques et les hôpitaux, spécialement dans les régions rurales, ne peuvent pas fournir les soins aux personnes infectées et, parallèlement, les victimes ne sont pas capables d'aller à ces centres de santé en raison de la situation d'insécurité dans le pays et du manque d'infrastructures de transport. Il a également été rapporté que ces centres de santé n'ont pas les ressources matérielles, financières et humaines nécessaires pour assister les personnes touchées.

167. Le 29 septembre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant la situation de **Dimas Kitenge Senga**, Président du Groupe Lotus, une organisation non gouvernementale de défense des droits de l'homme et animateur du collectif des associations de défense des droits de l'homme, basés à Kisangani. Selon les informations reçues, dans la nuit du 22 au 23 septembre 2005, le domicile de M. Dismas Kitenge Senga, situé dans la commune de Tshopo à Kisangani, aurait été incendié par plusieurs hommes non identifiés. Les incendiaires auraient d'abord tenté de forcer la porte d'entrée de l'habitation pour ensuite casser les fenêtres et mettre le feu aux rideaux, ainsi qu'à plusieurs meubles et documents. Selon les informations reçues, ces faits font suite à une conférence de presse, le 16 septembre 2005, tenue au bureau du Groupe Lotus par Kitenge Senga, sur les violations des droits de l'homme commises par des membres de la Garde spéciale de sécurité présidentielle (GSSP) dans la région de Kisangani. Cette déclaration avait été relayée, les jours suivants par plusieurs radios locales, dont la Radio-Télévision nationale congolaise, Amani et la Radio-Télévision pêcheurs d'hommes. Kitenge Senga aurait déjà fait l'objet de plusieurs menaces de mort qui s'ajoutent à une série d'actes de harcèlement et de pressions en représailles à ses activités de défense des droits de l'homme. Par exemple, dans la nuit du 2 au 3 juillet 2005, des hommes en uniforme et armés, pénétrés par effraction au domicile de Kitenge Senga, avaient emporté plusieurs objets et menacé sa famille de revenir si ce dernier n'abandonnait pas ses activités politiques. Malgré une plainte contre inconnu déposée par Kitenge Senga auprès de la police et du tribunal de Kisangani, à ce jour aucune suite à cette affaire n'aurait été donnée par les autorités.

168. Le 28 octobre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant la fermeture de la **Fondation Chirezi** (FOCHI), une association à but non lucratif travaillant à la défense des droits de l'homme et sur des menaces à l'encontre de ses membres. Selon les informations reçues, le 5 octobre 2005 des agents de l'Agence nationale de renseignements (ANR) d'Uvira se seraient rendus au siège de la Fondation sur ordre de l'un de leur major, dont le nom est connu de la Représentante spéciale du Secrétaire général, à la recherche de M. **Floribert Kazingufu**, coordonnateur de la Fondation et rédacteur en chef du bulletin de la Fondation, *Le Cor*. Ne le trouvant pas, ils auraient procédé à l'arrestation de M. **Philippe Bebe**, chargé de la sensibilisation aux droits de l'homme, et de M. **Dieudonné Babunduzi**, membre de la Fondation et frère de M. Kazingufu, qui se trouvaient sur les lieux. Tous deux auraient été emmenés dans les locaux de l'ANR-Uvira, où ils seraient restés détenus pendant deux jours. M. Floribert Kazingufu aurait fui Uvira de peur d'être également arrêté. Les agents auraient également emporté tout le matériel présent dans les bureaux (ordinateurs, fax, téléphone) ainsi que des documents, en particulier des dossiers de recherche en cours. Ils auraient également confisqué la voiture de l'organisation. Des craintes ont été exprimées que ces actes ne constituent une forme de représailles de la part des autorités locales d'Uvira contre les membres de la Fondation Chirezi en raison de leurs activités de dénonciation des violations des droits de l'homme perpétrées au Kivu.

169. Le 17 novembre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant l'assassinat de M. **Polycarpe Mpoyi Ngongo**, coordonnateur du Réseau national d'observation des élections (RENOSEC) pour la

région du Kasai oriental, et responsable du Centre de formation et d'éducation populaire (CEFOP). Selon les informations reçues, le 9 novembre 2005, M. Polycarpe Mpoyi Ngongo aurait été renversé à Mbuji-Mayi par un véhicule de la Police d'intervention rapide (PIR) qui aurait brusquement dévié de sa trajectoire pour le percuter. M. Mpoyi Ngongo serait mort sur le coup. D'autre part, trois militants des droits de l'homme, venus s'assurer de la régularité de la procédure policière, auraient été arrêtés sur ordre du commandant des services spéciaux de la police en présence du Gouverneur du Kasai oriental, arrivé le premier sur les lieux de l'assassinat. Ils auraient été relâchés quelques heures plus tard, sans qu'aucune charge ne soit retenue à leur encontre, mais continueraient à subir des pressions de la part des autorités locales. M. Polycarpe Mpoyi Ngongo avait fait l'objet de menaces et d'intimidations de la part d'agents de la PIR. Selon les informations reçues, le jour de sa mort et durant les trois jours qui l'ont précédé, des agents de la PIR se seraient régulièrement postés en faction aux abords de son domicile et y auraient effectué des rondes et, le 7 novembre 2005, il aurait été suivi par des agents de la PIR. De sérieuses craintes ont été exprimées que la mort de M. Mpoyi Ngongo ne constitue une forme de représailles en raison de ses activités de défense des droits de l'homme. Il avait à maintes reprises dénoncé l'insécurité et les violations des droits de l'homme dans le Kasai oriental. Il était par ailleurs l'un des principaux animateurs du RENOSEC, mis en place pour veiller à la régularité du processus électoral en République démocratique du Congo. Plus particulièrement, il travaillait sur l'implication possible des autorités dans l'assassinat de M<sup>e</sup> Leonard Mukendi Kabongo, avocat au Barreau de Mbuji-Mayi, tué dans la nuit du 30 au 31 octobre 2005, dont l'enquête est en cours. Sa mort survient à la suite du meurtre de M. Pascal Kabungulu Kibembi, secrétaire exécutif de l'ONG Héritiers de la justice et membre de la Ligue des droits de l'homme dans la région des Grands Lacs, le 31 juillet 2005 à Bukavu, sur lequel la commission d'enquête mise en place par les autorités n'aurait toujours pas rendu ses conclusions. Il se place également dans un contexte de harcèlement accru à l'encontre des défenseurs des droits de l'homme en République démocratique du Congo.

### **Communications reçues**

170. Le 13 avril 2005, le Gouvernement a répondu à la communication du 26 janvier 2005. Le Gouvernement informe la Représentante spéciale du Secrétaire général que plusieurs activistes des droits de l'homme, y compris ceux des associations auxquelles appartiennent MM. Sheldon Munihire Bihira, Richard Muhindo Bayunda et Charles Mukandirwa Wetemwami, mènent sans entrave leurs activités dans la ville de Goma et sur toute l'étendue de la province du Nord-Kivu. Le Gouvernement a donc souhaité attirer l'attention de la Représentante spéciale du Secrétaire général sur le fait que, pour des raisons économiques, certains activistes des droits de l'homme auraient tendance à se poser indûment en victimes en vue de bénéficier de facilités de sortie et de prise en charge à l'extérieur. Selon le Gouvernement, ces derniers transformeraient leurs activités de défense des droits de l'homme en fonds de commerce auprès de l'opinion internationale qui, de bonne foi, se laisserait abuser. Le Gouvernement a souligné que les Nations Unies pouvaient à loisir enquêter sur les cas évoqués par le biais de leur bureau de Goma et, le cas échéant, apporter des preuves contraires à ses affirmations et a demandé de l'informer des résultats obtenus.

### **Observations**

171. La Représentante spéciale du Secrétaire général prend bonne note de la réponse du Gouvernement à sa communication du 26 janvier 2005. Néanmoins, devant le nombre de

rapports crédibles et documentés reçus de sources variées faisant état d'un nombre grandissant d'assassinats, d'attaques physiques, de menaces et de persécution des défenseurs des droits de l'homme en République démocratique du Congo et face au grand nombre de communications envoyées dans le cadre de son mandat au cours de l'année 2005, elle demeure extrêmement préoccupée par la situation des défenseurs des droits de l'homme dans le pays. Elle exprime sa plus vive préoccupation devant l'apparente tendance à la dégradation de la situation qui a résulté en la mort de certains défenseurs et contraint un certain nombre d'autres à l'exil et à la clandestinité devant les menaces pesant sur leur intégrité physique. Elle note également le nombre grandissant d'entraves à la liberté d'association, d'expression et de raids opérés contre les associations de défense des droits de l'homme, en particulier dans le contexte des prochaines élections. Dans le cadre de l'invitation qui lui a été faite par le Gouvernement congolais, elle appelle ce dernier à fixer dans les plus brefs délais des dates pour qu'elle puisse effectuer une visite officielle dans le pays.

### **Dominican Republic**

#### **Comunicaciones enviadas**

172. El 14 de septiembre 2005, la Representante Especial envió un llamamiento urgente en relación con Padre Pedro Ruquoy, de 52 años, defensor de los derechos humanos. Padre Pedro Ruquoy trabaja con los campesinos dominicanos y los migrantes haitianos que trabajan en las plantaciones de caña de azúcar. De acuerdo con las informaciones recibidas, hacia el 24 de agosto 2005, durante una reunión de los guardias de seguridad de la plantación de caña de azúcar de Barahona que tuvo lugar en el Batay (asentamiento de trabajadores de la plantación) número 7, Padre Pedro Ruquoy habría recibido una amenaza de muerte de un coronel (cuyo nombre tenemos en nuestro conocimiento). Según los informes, el coronel le dijo al Padre Pedro Ruquoy que sólo estaba esperando una señal del propietario de la plantación para matarle. Anteriormente, según las informaciones recibidas, las autoridades gubernamentales habrían criticado el trabajo del Padre Pedro Ruquoy en defensa de los derechos humanos de los campesinos dominicanos y los migrantes haitianos. Además, después de denunciar la situación de los trabajadores migrantes haitianos ante la Comisión de Derechos Humanos de las Naciones Unidas y la Organización Mundial del Comercio, la prensa en la República Dominicana reportaba que el director del Instituto Nacional del Azúcar, una entidad gubernamental, habría acusado al Padre Pedro Ruquoy de tratar de "destruir la infraestructura azucarera". El Padre habría recibido amenazas desde que la prensa habría tergiversado el testimonio del Padre Pedro Ruquoy sobre la situación de los haitianos en la República Dominicana ante la Corte Interamericana de Derechos Humanos, en agosto de 2000, haciéndole parecer como un ataque contra el gobierno dominicano. En esta ocasión no recibió protección policial hasta dos meses después. En noviembre 2004, habría sido alcanzado por una piedra y estuvo inconsciente durante media hora antes de ser llevado al hospital. En particular, en abril 2005, habría sido amenazado a punta de cuchillo en su propia casa. Se teme que la reciente amenaza fuera otro intento de intimidar al Padre Pedro Ruquoy para que abandone su trabajo en defensa de los derechos de los campesinos dominicanos y los migrantes haitianos. Además, se expresaron temores por la seguridad y la vida del Padre Pedro Ruquoy.

## Observations

173. The Special Representative regrets that the Government of the Dominican Republic has not responded to her communication of 2005.

## Ecuador

### Comunicaciones enviadas

174. El 29 diciembre 2004, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente referente a las amenazas de muerte en contra del Sr. **Marlon Santi**, presidente de la Asociación Sarayaku, una organización dedicada a la defensa de la cultura, las tradiciones y los derechos humanos de la comunidad indígena Kichwa de Sarayaku. Me gustaría señalar que la situación de dicha comunidad ya fue objeto de dos llamamientos urgentes enviados conjuntamente el 27 de febrero de 2004 por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario-General para los defensores de los derechos humanos, y el 5 de marzo de 2004 por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Representante Especial del Secretario-General para los defensores de los derechos humanos. De acuerdo con la nueva información recibida, el Sr. Marlon Santi habría recibido amenazas de muerte durante los días 21 y 22 de diciembre del año en curso. Según se informa, el 21 de diciembre mientras el Sr. Marlon Santi participaba en el Segundo Congreso de Nacionalidades y Pueblos Indígenas del Ecuador, habría recibido una llamada telefónica anónima en la cual un hombre le habría dicho “te vamos a matar”. Se alega también que el día 22 de diciembre habría recibido otra llamada amenazadora de un desconocido quien le habría dicho “desiste de tu candidatura porque no vas a lograr ni 24 horas en el cargo, se te va a acabar la respiración”. Se teme que las nuevas amenazas de muerte en contra del Sr. Marlon Santi estén relacionadas con su trabajo de defensor de los derechos humanos de la comunidad indígena Kichwa de Sarayaku. La Representante Especial del Secretario-General para los defensores de los derechos humanos quiere manifestar su grande preocupación con respecto a la seguridad y la integridad física de los defensores de los derechos humanos en el Ecuador y urge al Gobierno Ecuatoriano a iniciar una investigación sobre las denuncias presentadas en sus comunicaciones y a tomar las medidas cautelares necesarias para garantizar la seguridad de dichas personas.

175. El 10 marzo 2005, la Representante Especial envió un llamamiento urgente en relación con la seguridad del personal de la Fundación Mariana de Jesús y en particular de su director **Francisco Peña**. La Fundación Mariana de Jesús es una organización perteneciente a la Comunidad de religiosos Jesuitas que labora en el desarrollo de programas sociales, especialmente relacionados con la vivienda popular y la salud en Quito, Ecuador. De acuerdo con las informaciones recibidas, el 2 de marzo de 2005, el personal de la Fundación Mariana de Jesús habría recibido una llamada telefónica anónima en la que fue amenazado con la posible explosión de una bomba en la sede de la fundación si el director no renunciaba a su cargo. Según se alega, el realizador de la llamada habría dicho, “Escuche con atención, dígame al Ingeniero Peña que tiene tres días para renunciar: hoy, el jueves y el viernes. Caso contrario que se atenga a las consecuencias. Tenemos una bomba en el edificio. Si no renuncia hasta el día viernes vamos

a activar la bomba”. También se informa que la amenaza fue denunciada a la policía, quienes registraron el edificio pero sin encontrar ningún explosivo. Además, se alega que el 17 de febrero de 2005, tres hombres no identificados dispararon tres tiros contra Francisco Peña, sin acertar, en un aparcamiento cerca de la sede de la Fundación. Según las informaciones recibidas, los hombres habrían disparado al director cuando éste se negó a entregarles los documentos y el ordenador portátil que llevaba consigo. Conforme a información adicional recibida, el 14 de febrero de 2005, cerca de 30 policías acompañados de un representante del Ministerio de Bienestar Social y 10 de sus asesores habrían ingresado a las oficinas de la Fundación Mariana de Jesús para presentar un acuerdo supuestamente emanado por el Ministerio de Bienestar Social con fecha 10 de febrero de 2005, por medio del cual se habría ordenado la disolución y liquidación de dicha Fundación. Según las informaciones, este acuerdo tendría como fundamento “varias denuncias y la presunción de que el funcionamiento de la Fundación no cuenta con una base legal”. El 16 de febrero de 2005, la Fundación Mariana de Jesús habría presentado una denuncia en la que afirmaba que la investigación del Ministerio de Bienestar Social violaba los derechos constitucionales de dicha fundación. Según la información recibida, el tribunal se habría pronunciado a favor de la fundación. Se teme que estos presuntos actos de intimidación contra el personal de la Fundación Mariana de Jesús y de su director, Francisco Peña, puedan estar vinculados con su trabajo de desarrollar programas sociales en el Ecuador y en particular por haber criticado la manera en que el Ministerio de Bienestar Social se estaba gestionando el presupuesto.

176. El 16 de junio de 2005, la Representante Especial, junta con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un comunicación en relación con los tres periodistas polacos; **Seweryn Blumsztajn**, del diario *Gazeta Wyborcza*, **Jerzy Jurecki**, del diario regional *Tygodnik Podhalanski* y **Wojciech Rogasin**, de *Newsweek Polonia*, su traductor **Maciej Sarna**, **Francesco Battistini**, corresponsal del diario italiano *Corriere della Sera*, **Kart Schwarzenberg**, senador checo, **Arnold Vaatz**, diputado alemán y **Boguslaw Sonik** y **Jacek Protasiewica**, ambos diputados europeos. Según la información recibida, en la noche del 19 al 20 de mayo de 2005, los Sres. Blumsztajn, Jurecki, Rogasin y Sarna fueron detenidos en La Habana. La policía cubana les habría detenido en su hotel, ubicado cerca del aeropuerto de la capital y luego habrían sido trasladados al aeropuerto y expulsados del país. El Sr. Battistini habría llegado a Cuba el 19 de mayo y habría sido detenido y expulsado el día siguiente. En la misma fecha habrían sido expulsados los Sres. Schwarzenberg y Vaatz. Los dos diputados europeos, Sres. Boguslaw Sonik y Jacek Protasiewica habrían sido expulsados justo después de su llegada, el 17 de mayo. La Sra. Caferra, por su parte, habría sido detenida en su hotel el 21 de mayo y expulsada el día siguiente. A tenor de lo informado, las personas mencionadas habían llegado a Cuba para participar en la Asamblea para la Promoción de la Sociedad Civil en Cuba (APSC), una agrupación de 365 organizaciones de la sociedad civil con el objetivo de instaurar la democracia en el país. Se teme que las expulsiones y las deportaciones estén relacionadas con la cobertura del APSC que iban a llevar a cabo.

177. El 14 de julio 2005, la Representante Especial envió un llamamiento urgente en relación con los miembros de la organización **Acción Ecológica**, una organización que trabaja con el ecologismo social, especialmente en las comunidades indígenas del país, cuyo caso ya fue objeto de un llamamiento urgente enviado el 16 de junio 2005 por la Representante Especial del Secretario-General para los defensores de los derechos humanos con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión. De acuerdo con las informaciones

recibidas, el 5 de julio 2005, a primera hora de la mañana, la organización Acción Ecológica habría recibido una amenaza de muerte, mediante un mensaje de texto enviado a uno de los teléfonos móviles utilizados por la organización, diciendo “mueres hoy”. Se teme que esta presunta amenaza en contra de la organización Acción Ecológica esté relacionada con su trabajo en defensa de los derechos humanos. Esta organización ha sido la principal fuente de información crítica sobre la política de las autoridades ecuatorianas de otorgar concesiones a compañías internacionales para extraer petróleo, y sobre las presuntas consecuencias negativas en el medio ambiente y a las comunidades indígenas. La organización se opone también a las repercusiones que sobre el medio ambiente y la salud pueden tener las fumigaciones en la zona fronteriza con Colombia, en el marco del Plan Colombia.

178. El 13 de septiembre 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con **Lina María Espinoza Villegas**, misionera en el Vicariato Apostólico de la ciudad de El Coca, provincia de Orellana y defensora de los derechos humanos, que trabaja con las comunidades ecuatorianas que están organizando protestas contra las compañías petroleras que operan en la región del norte del Amazonas en Ecuador. De acuerdo con las informaciones recibidas, entre el 24 y el 26 de agosto 2005, Lina María Espinoza Villegas habría recibido varias llamadas en su teléfono móvil, de un hombre desconocido, que le dijo: “Si se está cuidando, cuídese mucho. ¿Usted dónde está? ¿Dónde están sus hijos? Si usted está bien ahora, después no va [a] estar tan bien”. Además, según los informes, el 27 de agosto 2005, el autor de las llamadas habría dejado un mensaje en su buzón de voz en el cual le dijo: “Escorpión rojo a escorpión negro. ¿Dónde le pongo la carga?”, y en otro, el 28 de agosto, se habrían escuchado el sonido de disparos. Una denuncia habría sido presentada por Lina María Espinoza Villegas ante el Ministerio Público en Quito, pero no habría recibido ninguna noticia de que se haya abierto una investigación. Se han expresado temores por la seguridad e integridad física de Lina María Espinoza Villegas. A la luz de estas alegaciones, se teme que las amenazas contra la misionera estén estrechamente vinculadas con su trabajo con los campesinos e indígenas, en particular enseñándoles cómo proteger sus derechos humanos en su campaña contra las actividades de las compañías petroleras en la provincia de Orellana.

179. El 18 de noviembre de 2005, la Representante Especial envió un llamamiento urgente en relación con En este contexto, quisiéramos señalar a la atención urgente de su Gobierno las denuncias graves que hemos recibido en relación a la situación de **Alejandro Ponce Villacís**, **Ermel Chávez Parra**, **Pablo Fajardo Mendoza** y **Luis Yarza**, abogados defensores en el caso interpuesto contra la compañía petrolera Texaco (actualmente con el nombre de Chevron) por las comunidades indígenas Siona, Secoya, Cofán y Waorani. Según la información recibida, el 13 de octubre de 2005 un hombre se habría presentado a la casa de Ermel Chávez Parra, y al enterarse de que no estaba, habría pedido de manera insistente a la familia dónde lo podría localizar o dónde trabajaba. El individuo se habría identificando como agente de inteligencia del Batallón de Fuerzas Especiales “Rayo 24 ” de Lago Agrio, provincia de Sucumbós, lugar donde tienen la base legal, y se encontrarían los funcionarios y personal de seguridad privada de la compañía petrolera. Se informa también que, el 14 de octubre de 2005, Pablo Fajardo Mendoza habría recibido una llamada telefónica anónima en la oficina donde estaba trabajando en la que el individuo le habría dicho “que estaban realizando una “limpieza” de elementos políticamente indeseables en la región y que ellos sabían “quien trabajaba en esa oficina”. Además, el 28 de octubre 2005, los ordenadores y documentos importantes relacionados con la denuncia contra la

petrolera habrían sido robados de la oficina de Alejandro Ponce Villacís. Asimismo, la inteligencia militar del Batallón de Fuerzas Especiales Rayo 24 estaría siguiendo los movimientos y las llamadas telefónicas de Luis Yanza. Se teme que estas amenazas, actos de acoso e intimidación estén relacionados con el juicio contra la compañía petrolera Texaco, la cual habría llevado a cabo explotaciones petrolíferas en los últimos 26 años que habrían afectado a las mencionadas comunidades indígenas.

### Observations

180. The Special Representative regrets that the Government of Ecuador has not responded to her communication of 2005.

## Egypt

### Communications sent

181. On 22 March 2005, the Special Representative, together with the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning the **inhabitants of Sarando village, Baharriya Governorate and the surrounding areas**. According to the allegations received: On 4 March 2005 at approximately 7am, a large number of armed men led by members of the family of Salah Nawar arrived at the village, and destroyed crops and attacked the inhabitants. The attack is reportedly linked to an ongoing land dispute between the Nawar family and the villagers in Sarando and vicinity. It is reported that one of the armed med was killed during the clash and many of the male inhabitants fled the village, fearing retribution. At approximately 10am, a large number of police under the command of Lt. Col. Mohammad Ammar, Damanhour Centre for Police Investigations, Ministry of Interior, arrived to assist the members of the Nawar family. The police allegedly broke into homes, stole food and valuables and destroyed furnishings, and beat the inhabitants. The police cursed the women and girls, bound them together by their braided hair in addition to handcuffs, and in some cases beat them in the face with shoes. They took women and children into custody when wanted male relatives could not be found. At least thirteen women are known to have been arrested, as well as at least five young children: a nine year-old girl, a six year-old boy, a five year-old girl, a two year-old girl, and a two year-old boy. Their place of detention is still not known. One of the women detained in a later raid was forced to leave behind a days' old infant. One group of 14 women taken into custody were blindfolded, including three elderly women, moved from police checkpoint to police checkpoint for five days, and forced to sleep on floors without blankets, food, or water. One woman was detained outdoors with her three young children for three days without food or blankets in an effort to force her to testify that her husband had participated in burning a tractor. On 10 March 2005, Lt. Col. Ammar attempted to prevent a delegation of human rights activists and journalists from entering Sarando and Ezbit Baharriya. Women in both villages told the delegation that they did not know where their husbands and children are being held, and feared for their safety. It is estimated that at least 52 persons remain in detention. These police raids have reportedly occurred on multiple occasions since January 2005, resulting in the detention of many of the villagers in the village of Sarando. Moreover, it is reported that Lt. Col. Ammar remains in his post despite being under investigation in the beating of a pregnant woman, Ms. **Khayriya Abd al Minem al Baqali**, during a similar 5 January 2005 raid by security forces on the village. The police raid of

5 January also resulted in the detention of **Zayd Mahmud al Fiqi**. Although the Damanhour attorney general ordered his release on 6 March, the police have denied that he was in custody. Currently, he not known to have left police custody and his whereabouts are unknown. In view of the alleged detention in unknown locations of the above-mentioned villagers, concern is expressed that they may be at risk of torture or other forms of ill-treatment."

182. On 8<sup>th</sup> August 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture sent a letter of allegation concerning the following event, Security forces attacked and severely beat a number of people, including **George Ishaq** and **Amin Eskandar**, leaders of the opposition group Kifaya (Enough) and a member of this group **Abd al Hadi al-Mashad**, as well as two human rights activists: **Magdy Abdel Hamid**, a member of the Egyptian Association for Community Participation, and **Kamal Abbass**, the director of the Center for Trade Unions and Workers Services; journalist **Shaaban Abd al-Rahim al-Daba**, and an activist with the al-Hamla al-Sha`biyya min agl al-Taghyi (Popular Campaign for Change) **Salah Adli** who were attending a political rally in Tahir square, in Cairo, on 30 July 2005. Among the security forces there were also plain clothed men who brutalized several persons trying to flee the area. Some 40 people were arrested, detained and mistreated for several hours. Twenty-four among them were released on bail two days later, on 1 August 2005. According to information received, **Kamal Abbass**, **Abd al Hadi al-Mashad** and **Shaaban Abd al-Rahim al-Daba** sustained serious injuries and were taken to a local hospital.

### **Communications received**

183. In a letter dated 6 April 2005, the Government of the Arab Republic of Egypt responded to the communication of 22 March 2005. The Government stated that in relation to the events of 4 March 2005 that while Mr. **Salah al-Din Mubarak** and his workers were cultivating their land, a large crowd of former tenants who had been ordered to surrender the land, arrived unexpectedly carrying sticks and bladed instruments. They attacked the owner and set fire to the tractors and motor vehicles. This incident was reported and the Department of Public Prosecutions began an investigation into the incidents. On 7 March 2005, the Department of Public Prosecutions arrested 15 individuals and they were taken into custody. They were placed in preventive detention for 4 days and then arraigned before a magistrate. The magistrate ordered them to be detained for 30 days. On 19 March 2005 six of the accused persons were released. An autopsy report was produced on Ala BD al –Wahhab Hasan Nawar, showing that he died from head injuries. At the time of the reply the Department of Public Prosecutions was still continuing its investigations into his death. With regard to **Zayd Mahmud al Fiqi**, the Government stated that on 17 March 2005, the Department of Public Prosecution conducted a search of Damanhour police centre and Damanhour Police Station, but found no one who was being detained there illegally. Furthermore the Government stated that **Zayd Mahmud al Fiqi** affirmed that he had been placed in custody on 5 March 2005 at the Zawiya Ghazali police station, in connection with Damanhour police centre crime case NO. 776/2005. He was released on 16 March 2005. He identified the places in which he had been detained. Those places were inspected and the investigation into this case is now being completed. The Government stated that the results of the investigations would be provided as soon as they became available.

184. On 23 November 2005 the Government replied to the communication of 8 August 2005. At the time this report was finalised, this reply was still in the process of being translated.

### **Observations**

185. The Special Representative thanks the Government for its replies to the communications of 22 March 2005 and 8 August 2005, but regrets that she cannot comment on the case of 8 August 2005.

186. With regard to the communication of 22 March 2005, the Special Representative acknowledges the Government's position but remains concerned regarding the conditions of arrest and detention of the 15 individuals. The Special Representative looks forward to receiving the results of the investigation into the conditions of detention of **Zayd Mahmud al Fiqi**.

## **El Salvador**

### **Comunicaciones enviadas**

187. El 4 mayo 2005, la Representante Especial, junto con el Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la independencia de magistrados y abogados y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con la situación de **Ariel Hernández**, **Wuilian Iraheta** y **Daniel Flores**. De conformidad con las informaciones recibidas, el 28 de abril de 2005 a las 19.30 horas, fueron arrestados en el Aeropuerto Internacional de Comalapa los siguientes miembros de la Procuraduría para la Defensa de los Derechos Humanos de El Salvador, una institución con rango constitucional surgida de los Acuerdos de Paz:

Sr. **Ariel Hernández**, Sr. **Wuilian Iraheta**, ambos miembros del equipo jurídico de la Procuraduría, y Sr. **Daniel Flores**, motorista. El arresto de estas tres personas se produjo por decisión del Comisionado Douglas Omar García Funes, Subdirector de Investigaciones de la Policía Nacional Civil, quien ordenó también el decomiso del vehículo institucional en el que se transportaban los funcionarios detenidos y la toma de fotografías del mismo. Se afirma que estos funcionarios fueron arrestados mientras ejercían funciones constitucionales y legales de protección de los derechos humanos. Específicamente, los funcionarios detenidos se encontraban observando, en el marco del procedimiento de observación y seguimiento de la Procuraduría, la expulsión del país, aparentemente irregular, del médico de nacionalidad ecuatoriana Pedro Enrique Banchón Rivera, asesor laboral del Sindicato de Médicos Trabajadores del Instituto Salvadoreño del Seguro Social (SIMETRISSE). Se informa también que el Comisionado García Funes se encuentra bajo investigación por la muerte de dos agentes policiales y un interno y disparos efectuados contra personal de la Procuraduría para la Defensa de los Derechos Humanos durante un motín penitenciario que ocurrió en San Salvador en diciembre de 2002.

Se afirma por último que la detención de los tres funcionarios arriba nombrados forma parte de una serie de actos de intimidación, hostigamiento y represalias contra personal de la Procuraduría para la Defensa de los Derechos Humanos, tales como amenazas anónimas; campañas públicas de difamación; asaltos a vehículos de la institución y seguimiento y hostilización de sus funcionarios.

### **Comunicaciones recibidas**

188. Mediante comunicación del 24 de junio de 2005, el Gobierno proporcionó información con respecto a la comunicación urgente enviada el 4 de mayo de 2005 en relación con los Sres **Ariel Hernández, Wuilian Irahera y Daniel Flores**. El Gobierno informó que las actuaciones del Ministerio de Gobernación, de la Dirección general de migración y extranjería, de la policía nacional civil y de la Comisión ejecutiva portuaria Autónoma estuvieron en todo momento apegadas a la ley. El día 28 de abril de 2005, los agentes de la Policía Nacional Civil que habían solicitado y previamente recibido la autorización de ingresar en la zona aeronáutica para transportar al Sr Lanchón Rivera hasta la aeronave que lo haría salir del país entraron en el recinto aeroportuario. En el mismo momento ingresó un vehículo con matrícula N-17539 sin autorización, que no se paró a pesar de que los agentes que guardan el ingreso le indicaron la señal de alto constituyendo una grave violación de las instalaciones del Aeropuerto internacional de El Salvador. La Policía Nacional procedió a la captura de las personas que viajaban a bordo del vehículo, quienes eran auxiliares de la Procuraduría de derechos humanos. En este caso no se aplicaba el artículo 40 de la Ley de la Procuraduría para la defensa de los derechos humanos según el cual los auxiliares de la Procuraduría pueden ingresar sin restricción en los lugares de carácter público cuando se presume que se encuentra una persona privada de libertad. El área era de acceso restringido y para entrar los auxiliares tendrían que haber presentado una autorización judicial. El delito que se les imputó a las tres personas fue el de Actos Arbitrarios tipificado en el artículo 320 del Código Penal y sancionable con prisión de dos a cuatro años e inhabilitación especial para el desempeño del cargo para el mismo tiempo. La Policía Nacional Civil respetó en todo momento los derechos que tienen las personas cuando tienen la calidad de imputado informándoles sobre los hechos que se les atribuyen, de realizar las primeras diligencias de investigación, de ponerlos a disposición de la Fiscalía General de la República, dentro del plazo señalado por la ley. Tras la audiencia inicial del día 2 de mayo durante la cual se garantizaron todos los derechos a un debido proceso, el Juez de Paz de San Luis Talpa decretó sobreseimiento definitivo a favor de los imputados. A modo de conclusión, el Gobierno reiteró su reconocimiento y apoyo a la labor independiente de la Procuraduría para la Defensa de los Derechos Humanos y consideró que como institución nacional, la Procuraduría debe apegarse en su actuación, al respeto de las leyes y al Estado de Derecho y establecer el principio del deber de cooperación con los otros organismos estatales para realizar inspecciones.

### **Observations**

189. The Special Representative thanks the Government of El Salvador for its reply to the communication of 4 May 2005. While she acknowledges the Government's position, she remains concerned that the arrests of **Ariel Hernández, Wuilian Irahera and Daniel Flores** may form part of a series of acts of intimidation and reprisals against members of the Procuraduría General de Derechos Humanos.

### **Eritrea**

#### **Communications sent**

190. On 20 May 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the

question of torture, sent an urgent appeal concerning Mr. **Tewelde Ghebremedhin**, Chairperson of the Food, Beverages, Hotels, Tourism, Agriculture and Tobacco Workers Federation, Mr. **Minase Andezion**, Secretary of the Textile and Leather Workers' Federation, and Mr. **Habtom Weldemicael**, Head of the Coca-Cola Workers Union as well as an executive committee member of the Food and Beverage Workers' Federation. According to the information received, Mr. Tewelde Ghebremedhin and Mr. Minase Andezion were arrested by security police on 30 March 2005. Some days later, on or around 9 April 2005, security police also arrested Mr. Weldemicael, who is reported to have been arrested for urging industrial action to protest against workers' worsening standard of living. The three trade union leaders have been held incommunicado with no access to lawyers for more than a month. Furthermore, they have not been brought before a magistrate within 48 hours of their arrest. Concern was expressed that Mr. Tewelde Ghebremedhin, Mr. Minase Andezion, and Mr. Habtom Weldemicael might be held in detention solely on account of their efforts to exercise their mandates as trade union officers and to defend the economic and social rights of their unions' workers. Moreover, considering that they had reportedly been detained incommunicado for more than a month, concern was expressed that they might be at risk of torture or other ill-treatment.

### **Observations**

191. The Special Representative regrets that at the time this report was being finalized, no response had been received from the Government of Eritrea to the communication of 20 May 2005 concerning Mr. **Tewelde Ghebremedhin**, Mr. **Minase Andezion**, and Mr. **Habtom Weldemicael**,

## **Ethiopia**

### **Communications sent**

192. On 15 June 2005, the Special Representative, jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr. **Chernet Tadesse**, **Yared Hailemariam** and **Berhanu Adenaw**, human rights defenders and investigators for the Ethiopian Human Rights Council (EHRCO), Addis Ababa. According to the allegations received, on 8 June 2005, at approximately 9pm, Chernet Tadesse was arrested by police at his home. On 13 June 2005, at approximately 3:30pm, **Yared Hailemariam** and **Berhanu Adenaw** were arrested by police at the EHRCO office. No reasons were given for their arrests and their whereabouts are unknown. Concerns have been expressed that the arrests of Chernet Tadesse, Yared Hailemariam and Berhanu Adenaw may be linked to their activities in defense of human rights, in particular, their investigation and reporting of the recent deaths and arrests of demonstrators in Addis Ababa, which has already been the subject of an urgent appeal of 10 June 2005 by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture. Moreover, in view of their alleged detention in an unknown location, concern is expressed that they may be at risk of torture or other forms of ill-treatment.

193. On 25 October 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent

appeal regarding Mr. **Daniel Bekele**, Policy, Research and Advocacy Manager for Actionaid Ethiopia, an international non-governmental organisation in Addisu Gebeya, Addis Ababa, which works on poverty alleviation. According to the information received, on 16 October 2005, at approximately 20:00, Mr. Bekele was attacked in his car by two unknown armed individuals who pointed a gun at him and beat him with the pistol in the eyes and head. One of the assailants allegedly asked him: “who are you to criticize EPRDF (Ethiopian People’s Revolutionary Democratic Front) ?” The assailants ran away once Mr. Bekele succeeded in attracting attention by blowing the horn of his car. He lodged a complaint at the nearest police station, and Actionaid Ethiopia filed a complaint with the Federal Police Commission. To date, no investigation has commenced into the alleged attack. Concern is expressed for the physical safety of Mr. Bekele. Concern is further expressed that this attack against Mr. Bekele is related to his activities as a member of the Executive Committee of the Network of Ethiopian NGOs and other civil society organisations which monitored the elections on 15 May 2005. Mr. Bekele had publicly expressed his opinion regarding alleged irregularities during the electoral process.

194. On 3 of November 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Hailu Shawel** President of the Coalition for Unity and Democracy (CUD), **Debebe Eshetu**, CUD Vice President, **Dr. Berhanu Negga**, mayor of Addis Ababa, **Gizachew Shifferaw**, **Dr. Hailu Araya** former editor of the Press digest Publication, **Dr. Yakob Hailemariam**, former UN official and International Criminal Court official, **Ms. Birtukan Mideksa**, lawyer, as well as former army major **Getachew Mengiste** and **Professor Mesfin Woldemariam**, renowned author and human rights defender and founder and former chairman of the Ethiopian Human Rights Council (EHRCO), aged 75. According to information received, all the above-mentioned persons were arrested together with numerous other journalists, human rights defenders and members of the **Ethiopian Free Press Journalists’ Association**, as well as other leaders of the Coalition for Unity and Democracy (CUD) and elected members of parliament. Many of the arrests took place at the persons’ homes. Mr. **Hailu Shawel** was also beaten by the police officers upon being arrested. None of the persons arrested are reported to have been brought before a court of law within the 48 hour limit prescribed by law. Some of the arrested persons are purportedly being detained at the Police Central Investigation Bureau, known as Maikelawi. Many others are being detained at unknown locations. Since 1 November 2005, riot police, using live ammunition to target protestors in the central Mercato and other districts, killed at least 30 people, including women, and injured at least 150 protestors in anti-Government protests in Addis Ababa. The protests had started peacefully but then degenerated into stone throwing and burning of vehicles after police reportedly began shooting at the protestors. Two police officers were also killed by the protestors. The protestors accused the Government of rigging the May Parliamentary elections. The Information Minister accused the EFJA and the Ethiopian Teachers Association of inciting the violence and of being used by the opposition CUD. The Minister also called radio stations **Voice of America** and Germany’s **Deutsche Welle** mouthpieces for CUD and claimed that the radio stations were determined to destabilize the peace and stability of the country. Moreover, on 30 October 2005, police officers stopped **Eskinder Firew**, a VOA correspondent, while traveling in a taxi with other journalists, and seized his tape recorder. They only returned the tape recorder after having listened to several minutes of the recording. Mr. **Firew** was then

threatened by a man in plain clothes who was accompanying the police officers who said that they would kill him if he continued to work for VOA.

195. On 18 November 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning **several journalists, opposition leaders**, members of the Ethiopian Teachers' Association as well as **human rights defenders** and other **members of the civil society**. According to information received, on 9 November 2005, Prime Minister Meles Zenawi stated in an interview with BBC that journalists and opposition leaders in detention in connection with the demonstrations which took place starting 1 November 2005, could face charges of treason for having attempted to violently undermine the constitutional order in the country. Treason is punishable by death in Ethiopia according to article 248 of the newly adopted Penal Code, although the PM indicated that he is not in favor of the death penalty. The Special Representative together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the question of torture, sent an urgent appeal on 3 November 2005 concerning the arrest and detention of the demonstrators as well as the reported excessive use of force by authorities in bringing an end to these demonstrations, as a result of which more than 40 persons are reported to have been killed. Following the Prime Minister's statement, the Government issued a list with the names of persons the authorities planned to prosecute for attempting to violently undermine the constitutional order in the country in connection with the said demonstrations which had the aim of protesting against the May election results. Of the 58 individuals named, 17 are newspaper publishers, editors or journalists. **Kifle Mulat**, the president of the Ethiopian Free Press Journalists' Association (EFJA), is also on the list. The list also includes the names of opposition leaders, heads of the **Ethiopian Teachers' Association** as well as human rights defenders. It was distributed by State-owned media together with photographs of many of the journalists concerned and calls on the public to inform the police of the whereabouts of any of the persons listed.

### **Communications received**

196. On 23 November 2005, the Government replied to the communication of 18 November 2005 concerning those who protested against the May election results. The Government stated that according to the police, the situation at the time that this reply was sent had been restored in the affected parts of the country and a large number of persons who had been taken into custody in the wake of the disturbances but who had not been involved directly in the violence, have been released. On the other hand, those that were either directly involved in the violence as well as those who are considered to be the masterminds of the violence were, at the time this reply was sent, still under custody pending prosecution. The process of releasing detainees was continuing in an expedited manner. Key leaders of the opposition had already been charged under the relevant provisions of the Penal Code and had appeared, at that stage, twice before the Federal High Court; their due process rights were fully respected. Moreover, following intensive debate on the Report of the Federal Police Commission, the Federal Parliament adopted a resolution to establish a Neutral Inquiry Commission with a mandate to investigate (a) the cause of the lapse in the security situation during the period concerned, (b) whether force used by the security forces was proportionate to the gravity of the situation, and (c) the extent of the loss of life and

damage or destruction of property during the disturbances. The Government also attached a detailed report prepared by the Federal Police Commission on the incidents that followed the third national elections in Ethiopia held in May 2005.

### **Observations**

197. The Special Representative thanks the Government for its reply to her communication of 18 November 2005, but regrets that at the time that this report was being finalized no reply had been received to her communications of 15 June 2005, 23 October 2005 and 3 November 2005.

198. With regard to the communication of 18 November 2005, she takes note of the Government's position but would like to reaffirm her genuine concern about allegations of arbitrary detention, arrest and legal proceedings against the human rights defenders in question in particular those who remain in detention pending prosecution and may be charged with treason which is punishable by death. The Special Representative looks forward to receiving information regarding the results of the investigations undertaken by the Neutral Inquiry Commission.

## **Georgia**

### **Communications sent**

199. On 7 October 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal regarding Mr. **Ucha Nanuashvili**, executive director of the Human Rights Information and Documentation Center (HRIDC) in Georgia, an organization which works, inter alia, at monitoring the situation of human rights and minority rights in Georgia, fighting against torture and trafficking. According to the information received, on 27 September 2005, Mr. Nanuashvili was accused over the phone of being an "informer" and a "betrayor", by the Head of the Department for Relations with Georgian Diasporas and Inter-Ethnic Relations at the Georgian President's Office. HRIDC was accused of spreading false information about ethnic minorities in Georgia and of representing the interest of foreign forces. According to information received, HRIDC had previously received several threats from high ranking officials. In particular, in 2004, the Head of the legal department of the State Chancellery and advisor to the Prime Minister, asked HRIDC to cease its activities on refugee rights and indicated that the centre might "have problems" if it refused to comply. Concern is expressed that these threats may be aimed at deterring HRDIC and its members from conducting their human rights work.

### **Observations**

200. The Special Representative regrets that at the time this report was being finalized, no response had been received from the Government of Georgia to the communication of 7 October 2005 concerning Mr. **Ucha Nanuashvili**.

## Guatemala

### Comunicaciones enviadas

201. El 14 enero 2005, la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados, envió un llamamiento urgente con respecto a la situación de **Armando Sánchez**, abogado, quien habría recientemente recibido una amenaza de muerte. De acuerdo con las informaciones recibidas, el 23 de diciembre, un individuo no identificado habría llamado al teléfono móvil de Armando Sánchez y le habría dicho que lo matarían si no abandonaba el país en cinco días. Tras haber denunciado esta amenaza de muerte, Armando Sánchez habría recibido protección policial las 24 horas del día. El 26 de diciembre a las dos de la mañana, tres hombres habrían llamado a la puerta de un vecino y preguntado cuál era la casa de Armando Sánchez. Los hombres no se habrían acercado de la casa, que estaba protegida por dos policías. La protección de 24 horas al día habría durado aproximadamente una semana, y desde entonces se habría reducido a tres horas cada noche, aproximadamente entre las nueve y las doce. Sin embargo, la policía no habría proporcionado protección la noche del 6 de enero, pese a que había acordado hacerlo. Se expresaron temores que las amenazas recibidas por Armando Sánchez estuvieran relacionadas con su trabajo de abogado y defensor de los derechos humanos. Entre los clientes a los que Armando Sánchez representa se encuentran una organización local de derechos humanos que ha acusado a autoridades gubernamentales locales de complicidad en ayudar a escapar a un sospechoso de asesinato, una mujer cuyo esposo fue presuntamente asesinado por narcotraficantes, y agricultores que mantienen con sus empleadores conflictos laborales que incluyen despidos ilegales, incumplimiento de derechos laborales y desalojos de agricultores de dos fincas locales. Al mismo tiempo, en agosto de 2004 Armando Sánchez presentó una denuncia contra la policía local, a la que acusó de cerrar ilegalmente el derecho de paso en la localidad en la que vive y trabaja, Coatepeque, en el departamento de Quetzaltenango. Tras presentar la denuncia, el fiscal local lo acusó de coacción e incitación a delinquir. Se teme que estos cargos constituyan un intento de impedir al abogado realizar su trabajo.

202. El 18 enero 2005, la Representante Especial, junto con el Relator Especial sobre el derecho a la libertad de opinión y de expresión, envió un llamamiento urgente referente a la situación de **Leonel García Acuña**, Secretario General del Sindicato de Trabajadores de la Municipalidad de San Miguel Pochuta, en el departamento de Chimaltenango. Según las informaciones recibidas, el 3 de enero de 2005, durante un reunión, el alcalde municipal de San Miguel Pochuta habría amenazado a los fundadores del Sindicato de Trabajadores y dicho que “desde ese momento los tomaba como sus peores enemigos por haber constituido el Sindicato”. Después de esta declaración, los trabajadores del municipio habrían presentado una petición a la comuna, y como no habrían dado ninguna respuesta, habrían finalmente presentado una queja ante la Inspección General de Trabajo. El 5 de enero de 2005, dos Inspectores habrían intentado encontrar al funcionario edil pero éste no habría asistido. Según la información recibida, el 7 de enero de 2005, mientras que realizaba gestiones en la finca California del municipio de San Miguel Pochuta, Leonel García Acuña habría sido víctima de un ataque sobre su vida. Según las fuentes, cuatro desconocidos armados se habrían acercado al grupo que acompañaba a Leonel García Acuña. Inmediatamente, las personas se habrían dispersado en todas las direcciones. Los desconocidos habrían continuado a disparar, mientras que gritaban: “Maten a ese hijo de puta, no hay que dejarlo vivo”. **Leonel García Acuña** huyó de sus

atacantes a pie. Se expresaron temores que las amenazas recibidas por Leonel García Acuña estuvieran relacionadas con su trabajo como defensor de los derechos humanos y con fundación del Sindicato.

203. El 23 febrero 2005, la Representante Especial envió un llamamiento urgente relativo a la Sra. **Sara Poroj**, trabajadora de la organización Grupo de Apoyo Mutuo (GAM) y encargada del Programa de Exhumaciones de Cementerios Clandestinos, en hechos ocurridos en el lugar conocido como Playa Grande, Municipio de Ixcán, Departamento de Quiché, Guatemala. Según los informes recibidos, el 3 de febrero de 2005, aproximadamente a las 3.00 de la madrugada, un hombre desconocido y armado habría irrumpido en la habitación del hotel en Playa Grande donde se encontraba alojada la Sra. Sara Poroj. El intruso habría amenazado a la interesada y registrado documentos y pertenencias del GAM. Según las denuncias, otros hombres armados se encontraban apostados en las afueras de la habitación. Se teme que este acto de hostigamiento pueda estar relacionado con el trabajo que realiza Sara Poroj como integrante del GAM. Esta persona fue a Playa Grande para realizar los trámites correspondientes para la obtención de la autorización para realizar una exhumación en un cementerio clandestino, localizado en la comunidad Finca Las Vegas, dentro de una zona militar. Otros integrantes del GAM habrían también sido amenazados de muerte anteriormente por el solo hecho de realizar trámites legales para las exhumaciones. La Sra. Sara Poroj sería la última víctima de una campana de amenazas e intimidación, mediante la cual los responsables de los entierros en cementerios clandestinos de personas asesinadas tratarían de forzar a los integrantes del GAM a abandonar su trabajo legítimo.

204. El 23 febrero 2005, la Representante, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente referente a la situación de inseguridad en la que se encontrarían miembros de **Hijos e Hijas por la Identidad y la Justicia contra el Olvido y el Silencio**—H.I.J.O.S.—Guatemala, una organización que vela por los derechos humanos integrales de la juventud y busca la aplicación de la justicia a los responsables de las violaciones de derechos humanos. De acuerdo con las informaciones recibidas, el 9 de enero de 2005, en horas de la madrugada, la sede de la organización H.I.J.O.S, en la Ciudad de Guatemala, habría sido la víctima de un allanamiento. Según las fuentes, personas desconocidas habrían forzado las puertas principales, revisado las oficinas, registrado los archivos y llevado materiales muy importantes para la organización. En particular, habrían robado tres computadoras, las cuales contenían información sobre investigaciones realizadas durante el año 2004, referentes a la militarización, la violencia institucional y a la persistencia de la práctica de la tortura. También habrían sustraído directorios con las direcciones y teléfonos de instituciones, personas colaboradoras de la organización e integrantes, así como objetos y materiales de uso general. Se expresaron temores que el nuevo acto de hostigamiento en contra de H.I.J.O.S pudiera estar relacionado con el trabajo que realizan en defensa de los derechos humanos, en particular, las investigaciones sobre la represión y la violencia institucional. Se noto que el ataque habría ocurrido pocos días después de la inauguración de la nueva sede. Además, según se alega el allanamiento de las oficinas de H.I.J.O.S no sería un hecho aislado, sino que formaría parte de una ola de ataques que estaría sufriendo la organización, hasta tal punto que en 2002 la Comisión Interamericana de Derechos Humanos (CIDH) concedió medidas cautelares a todos los miembros y colaboradores. No obstante, en junio de 2004, dos miembros de la organización habrían recibido amenazas de muerte. En diciembre de 2004 el Estado de Guatemala brindó unas medidas de protección, a través de la seguridad perimetral prestada por

miembros de la Policía Nacional Civil a las oficinas. A pesar de las acciones tomadas, la intimidación de miembros de H.I.J.O.S continuaría.

205. El 23 mayo 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente en relación con las organizaciones **Hijos por la Identidad y la Justicia contra el Olvido y el Silencio (HIJOS)** y la **Coordinadora Nacional de Organizaciones Campesinas (CNOC)**. De acuerdo con dichas informaciones, el 8 de mayo de 2005, la oficina de la CNOC fue allanada por desconocidos. Durante el incidente, 15 ordenadores y diversos documentos que contenían información importante, de carácter confidencial, correspondiente tanto al trabajo desarrollado por la organización como datos personales de sus miembros, fueron sustraídos. Cabe destacar que hubo otros objetos de valor que no fueron sustraídos. Además, se informa que el 10 de mayo del año en curso, después que la CNOC trasladó sus oficinas al Instituto de Estudios Comparados en Ciencias Penales de Guatemala, la sede de dicho instituto fue igualmente allanada. En esta ocasión, los asaltantes no se llevaron nada. Por otra parte, se informa que el 11 de mayo de 2005, en horas de la noche, las oficinas de la organización HIJOS fueron también asaltadas. Las puertas traseras fueron forzadas y los archivos de la organización fueron examinados. Se informa además que se sustrajeron dos ordenadores que contenían información confidencial. Al igual que ocurriera durante el allanamiento de la CNOC, hubo objetos de valor material, entre otros un ordenador nuevo que no contenía información alguna, que no fueron sustraídos. Se expresaron temores que dichos actos de hostigamiento estuvieran relacionados con el trabajo que llevan a cabo las dos organizaciones.

206. El 1 julio 2005, la Representante Especial, junto con el Relator Especial sobre la promoción y protección de la libertad de expresión y opinión, envió un llamamiento urgente en relación con la situación de **José Ernesto Menchú Tojib**, miembro del Comité de Unidad Campesina (CUC) y del Movimiento de Víctimas del Conflicto Armado Interno de Uspantán. Según las informaciones recibidas, el 19 de junio 2005, aproximadamente a las 11.45 horas, cuatro desconocidos armados entraron en el taller de José Ernesto Menchú Tojib, en el pueblo de Chamac, Uspantán, Departamento de El Quiché. Los hombres preguntaron a su esposa dónde estaba Menchú Tojib, pero ésta les respondió que no lo sabía. Los hombres se llevaron 500 Quetzales y el teléfono móvil de Menchú Tojib. Al marcharse, le dijeron a la esposa: “En cualquier rato lo encontramos y hasta que lo matemos”. En cuanto regresó a su taller, Menchú Tojib observó a un hombre, que pasó dos veces por el taller, mirándole. Pudo reconocerle como guardia de seguridad de la cercana hacienda San Siguan, y como ex integrante de los “comisionados militares”, uno de los grupos paramilitares implicados en abusos contra los derechos humanos perpetrados durante el conflicto armado interno. Se expresaron temores que estas amenazas estuvieran relacionadas con el trabajo que Menchú Tojib realiza como miembro del Movimiento de Víctimas del Conflicto Armado Interno de Uspantán. En particular, por su campaña en favor de un grupo de 112 familias de trabajadores agrarios de la hacienda San Siguan, quienes estarían en peligro de ser expulsados de las tierras donde viven y trabajan, dado que la hacienda habría sido vendida.

207. El 13 de julio 2005, la Representante Especial, junto con el Relator Especial sobre la promoción y protección de la libertad de expresión y opinión, envió un llamamiento urgente en relación con la situación de la organización del **Sindicato de Trabajadores de la Educación (STEG)**. De acuerdo con dichas informaciones, el 25 de junio 2005, Día Nacional de los

Profesores, durante la noche, la sede del STEG, ubicada en la 4ª avenida y 6ª calle de la zona 1, en la ciudad de Guatemala, habría sido allanada por desconocidos. Según se informó, durante el incidente, se habrían robado los discos duros de los ordenadores, documentos importantes y discos compactos. Cabe destacar que otros objetos de valor que no habrían sido sustraídos. Además, se informó que durante el allanamiento habrían manchado las paredes con pintura roja y específicamente cruces rojas en lugares estratégicos como en los afiches en contra de la privatización de la educación, los afiches donde aparece el nombre del STEG y donde aparecen personajes importantes del movimiento. Se expresaron temores que dichos actos de hostigamiento estuvieran relacionados con el trabajo que lleva a cabo la organización, en particular una campaña nacional para aumentar el conocimiento de los peligros y riesgos de la propuesta Ley Nacional de Concesiones y la CAFTA.

208. El 15 de julio 2005, la Representante Especial, junto con el Relator Especial sobre la promoción y protección de la libertad de expresión y opinión y Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente en relación con la situación del Señor **Mario Antonio Godínez López**, 37 años, Coordinador General de la Asociación para la Promoción y el Desarrollo de la Comunidad Ceiba (CEIBA), una organización que apoya y asesora a diversas comunidades y organizaciones a defender los derechos humanos y a promover la participación ciudadana. Según la información recibida, el 7 de julio de 2005, a las 07.40 de la mañana, **Mario Antonio Godínez López** habría recibido un fax amenazante en la oficina de CEIBA en Chimaltenango. El fax, firmado por el ‘Grupo De Acción Por La Paz de Huehuetenango’ habría ordenado que se dejara de organizar reuniones de más de 20 personas y que si no lo hiciera, lo entenderían como un acto de provocación y “reaccionaremos en respuesta de sus acciones desestabilizadores”. Le habrían recomendado que se tomara mucha prudencia en su trabajo. Se expresaron temores estas amenazas en contra de **Mario Antonio Godínez López** pudieran constituir un claro intento de impedir su trabajo de defensor de derechos humanos, en particular su trabajo contra las concesiones mineras que hay autorizadas para 19 comunidades de Huehuetenango, y contra el Tratado de Libre Comercio (TLC) con Estados Unidos. En de abril 2005, **Mario Antonio Godínez López** habría viajado a los Estados Unidos como parte de una delegación que habría cabildeado al Congreso para que no aprobaran el TLC. Además, el 16 de marzo de 2005, al día siguiente de la manifestación contra el TLC que se habrían realizado en Huehuetenango, dos hombres armados desconocidos habría ido a la oficina de CEIBA preguntando por el Jefe o el Segundo Jefe, el que habría sido Mario Antonio Godínez López, pero no se habrían encontrado en el país.

209. El 28 de julio 2005, la Representante Especial, junto con el Relator Especial sobre la promoción y protección de la libertad de expresión y opinión, envió un llamamiento urgente en relación con la seguridad de los miembros de las organizaciones: UNSITRAGUA, Unión Sindical de Trabajadores del Banco Crédito Hipotecario Nacional de Guatemala y Sindicato de Trabajadores del Crédito Hipotecario Nacional, organizaciones que protegen los derechos de trabajadores del Crédito Hipotecario Nacional. De acuerdo con la información recibida, el 25 de julio 2005, aproximadamente a las 7:30 horas, se encontró una corona mortuoria colgada de una ventana de la sede de UNSITRAGUA, sita en la 9ª avenida, 1-43, zona 1 de la ciudad de Guatemala, así como dos escritos conteniendo amenazas de muerte a los siguientes ocho miembros del Sindicato de Trabajadores del Crédito: **Luis Morales; Vinicio Ordóñez; Fernando Cirín; Efraín López; Elio Monroy; Manuel Arias; Lic. Danilo Chea y Douglas**

**Acencio.** Se expresaron temores que estos actos de hostigamiento en contra de miembros de las organizaciones sindicales mencionadas constituyeran un intento de intimidarles en represalia por su denuncia de la gestión de dicha entidad financiera y de los planes para privatizar dicho banco.

210. El 4 de agosto 2005, la Representante Especial envió un llamamiento urgente en relación con miembros del Centro de Acción Legal para los Derechos Humanos (CALDH), una organización no gubernamental que promueve y defiende los derechos humanos fundamentales de hombres y mujeres excluidos, pobres y discriminados, en particular, con respeto a los Sres. **Luis Fernando Barrera, Gustavo Adolfo Muñoz y José Quino.** De acuerdo con las informaciones recibidas, el 21 de junio 2005, a las 10.30 de la mañana aproximadamente, Luis Fernando Barrera habría ido a dejar correspondencia en una institución entre la 2ª calle y la 4ª avenida de la zona 2, en Ciudad de Guatemala. Entonces dos hombres armados desconocidos le habrían encañonado y acto seguido le habrían quitado el vehículo marca Toyota tipo Teruel. Según las informaciones recibidas, éste coche sería el cuarto vehículo del CALDH robado a mano armada en poco más de un año. De acuerdo con las informaciones recibidas, el 18 junio 2005, a las 8.30 de la mañana aproximadamente, Gustavo Adolfo Muñoz habría subido a un microbús entre la 18ª calle y la 4ª avenida de la zona 1 de Ciudad de Guatemala, con destino a Nimajuyú. Tres hombres desconocidos, de aspecto oriental, habrían subido al microbús. Uno de ellos se habría colocado a su lado y los otros dos detrás. Le habrían amenazado con una pistola, y le habrían robado sus pertenencias. Gustavo Adolfo Muñoz habría sido el único pasajero asaltado en el microbús, a pesar de que éste estaba lleno, y los asaltantes habrían advertido a otros pasajeros que no intervinieran. El 17 junio 2005, entre las 19 y 20 horas, un hombre desconocido habría empuñado un machete contra el suelo delante de la casa de José Quino, en la Aldea Panimatzalan, cerca de la cabecera municipal de San Andrés Semetabaj, departamento de Sololá. Al día siguiente, José Quino habría ido a la sede del Observatorio de Derechos Humanos, en el departamento de Sololá, y habría dejado su coche cerca de allí. Cuando regresó, se habría encontrado con los vidrios del coche rotos. Le habrían robado la radio y algunas herramientas. Según la información recibida, seguidamente José Quino se habría dirigido a Panajachel. Una persona desconocida le habría proferido insultos y le habría gritado que “eso les pasa por dejar abiertas las puertas”. Ante el hecho de que cuatro otros coches pertenecientes al CALDH habrían sido robados anteriormente, se teme que este último robo pueda constituir un acto de acoso contra CALDH y en particular contra **José Quino.** A la luz del anterior robo de cuatro coches pertenecientes al CALDH, Se expresaron temores que este robo pudiera ser un acto de acoso en contra de **José Quino,** por su trabajo como defensor de derechos humanos. Se expresaron temores estos actos constituyeran acosos en contra de los Sres. **Luis Fernando Barrera, Gustavo Adolfo Muñoz y José Quino** relacionados con su trabajo de promoción y protección de los derechos humanos en el seno de CALDH.

211. El 8 de agosto 2005, la Representante Especial envió un llamamiento urgente en relación con el Sr. **René Muñoz,** miembro del Programa Estudios para el Desarrollo Rural de la Coordinación de Organizaciones No-Gubernamentales y Cooperativas (CONGCOOP). Como parte del equipo de la CONGCOOP, habría apoyado activamente a organizaciones campesinas en su lucha por el acceso a la tierra y el desarrollo rural y participaría en la Mesa Intersectorial de Diálogo y Participación para la Formulación de la Política Pública de Desarrollo Rural Integral, la Alianza para el Desarrollo Rural y en el Movimiento Indígena Campesino, Sindical y Popular (MICSP). De acuerdo con las informaciones recibidas, el Sr. René Muñoz habría recientemente recibido amenazas a través de varias llamadas telefónicas tanto en su oficina como en su casa y

en la de sus familiares, en Ciudad de Guatemala. Habría recibido la primera llamada amenazadora el 1 de julio de 2005, cuando un hombre que se habría identificado como miembro de la Cámara del Agro le llamó para quejarse sobre un campo pagado publicado por la CONGCOOP. El hombre habría utilizado expresiones como “Si estuviera frente a mi ya sabría lo que es bueno” o “Si fuera una amenaza ya estaría muerto”. El 4 de julio su esposa habría recibido otras llamadas similares con insultos hacia el Sr. René Muñoz y ella misma, llamadas con ruidos de respiraciones forzadas o con silencios. El día siguiente, se habría presentado una denuncia sobre estos hechos ante la Procuraduría de Derechos Humanos, donde se habría propuesto al Sr. René Muñoz remitir su denuncia al Ministerio Público y solicitar medidas de seguridad perimetrales, como controles policíacos en los alrededores de su casa y de su oficina. La noche de este mismo día 5 de julio, el Sr. René Muñoz y su familia habrían encontrado unas hojas bajo la puerta de su casa. El 6 de julio por la noche, al regresar a su casa, se habrían dado cuenta de que la llave ya no funcionaba y que la puerta había sido golpeada de tal manera que no dejaba entrar la llave. El 11 de julio, cuando se encontraba con su familia en casa de sus suegros, habrían recibido otra llamada en la que un hombre desconocido habría contestado “A ese hijo de la gran puta lo queremos fuera”, refiriéndose de nuevo al Sr. René Muñoz. Se expresaron temores que estos hechos no fueran actos de acoso aislados, más que formen parte de un clima de inseguridad, de amenazas y de acciones en contra de activistas sociales en Guatemala.

212. El 18 de agosto 2005, la Representante Especial envió un llamamiento urgente en relación con el en relación con el Sr. **Francisco Javier Mateo**, Presidente de la Asociación de Población Desarraigada del Petén (APDP), delegado titular ante el Consejo de Desarrollo del Departamento del Petén y delegado departamental ante el Gran Diálogo Nacional para presentar propuestas de la sociedad civil, y la Sra. **Candelaria Ramírez**, tesorera de la APDP, representante de organizaciones de mujeres y delegada en el Consejo de Desarrollo Comunitario del Petén. De acuerdo con la información recibida: El 14 de julio de 2005, el Sr. **Francisco Javier Mateo** habría recibido una llamada telefónica en la que tanto él como la Sra. **Candelaria Ramírez** habrían sido amenazados de muerte. Concretamente, la persona que le habría llamado habría dicho “tenemos controladas todas sus vueltas y las de **Candelaria Ramírez** y en cualquier momento correrán la misma suerte que Álvaro Juárez”. El Sr. Álvaro Juárez, dirigente y uno de los fundadores de la APDP habría sido asesinado el 8 de julio de 2005 por unos hombres cuya identidad se desconoce y fuertemente armados que irrumpieron en su casa. Según la información recibida, el Sr. Álvaro Juárez ya había denunciado un atentado de muerte en su contra, y unos días antes de su muerte presentó otra denuncia por amenazas de muerte. Se alega que estas denuncias no fueron investigadas. A la luz de estas alegaciones, Se expresaron temores en cuanto a la vida del Sr. **Francisco Javier Mateo** y la Sra. **Candelaria Ramírez**. También Se expresaron temores que las amenazas formuladas en contra de estas personas fueran un intento para impedir su trabajo en defensa de los derechos humanos.

213. El 16 de septiembre 2005, la Representante Especial envió un llamamiento urgente en relación con **Fredy Peccerelli**, director de la Fundación de Antropología Forense de Guatemala (FAFG) y **Omar Girón de León**, antropólogo forense y miembro de la FAFG. La FAFG ha estado trabajando para exhumar las fosas comunes donde se encuentran enterrados quienes murieron a manos del ejército guatemalteco y de sus auxiliares civiles a principios de la década de 1980. De acuerdo con la información recibida, el 8 de septiembre 2005, la hermana de Fredy Peccerelli y esposa de Omar Girón de León habría encontrado una nota con una amenaza de muerte bajo la puerta del garaje de su casa en la ciudad de Guatemala. La nota habría dicho

“No entendieron la primera vez, ya dijimos que no los queríamos trabajando, si no entendieron por el lado fácil ahora si las van a pagar, Sr. Pecherely [sic] tu hermana pagara... te vamos a quebrar el culo Sr. Pecherely escoje tu tacuche porque te ha llegado la hora”. El 26 de agosto 2005, un hombre desconocido habría interceptado a la ex esposa de Fredy Peccerelli cuando regresaba a casa en automóvil y le habría puesto una pistola en la cabeza y le habría dicho “estamos controlando al licenciado Fredy Peccerelli”. Las dos amenazas han sido denunciadas ante la Fiscalía y ante la Procuraduría de los Derechos Humanos. Anteriormente, Omar Girón de León y su esposa habrían recibido amenazas de muerte y por eso, en 2002, la Comisión Interamericana de Derechos Humanos habría ordenado que se tomaran medidas cautelares para proteger a Omar Girón de León y Fredy Peccerelli y sus familiares. En tal sentido, Fredy Peccerelli recibe protección policial las 24 horas del día. Omar Girón de León y su esposa sólo reciben protección en su casa. La FAFG habría pedido al Ministerio de Gobernación que se aumente la presencia policial en sus oficinas y cuando realizan exhumaciones en el campo. No habían recibido más protección. Se expresaron temores por las continuas amenazas y obstrucciones al trabajo de la Fundación de Antropología Forense de Guatemala y se insto al Gobierno a tomar las medidas necesarias para asegurar que la gente pueda trabajar y vivir en un ambiente seguro.

214. El 10 de octubre de 2005 la Representante Especial envió un llamamiento urgente en relación con la Organización Sindical Central de Trabajadores del Campo, CTC y **Miguel Ángel Lucas Gomez**, Director del Sindicato de Trabajadores Agrícolas de la Finca la Vina 1 Portacely,. El sindicato es parte de la base de la CTC, y miembro de la comisión paritaria que discute el salario mínimo para el Sector Agrícola y representante de los trabajadores ante la Junta Directiva del Instituto Guatemalteco del Seguro Social. Según las informaciones recibidas: El 27 de septiembre 2005, aproximadamente a las 12:30 del mediodía, las oficinas de la CTC habrían sido allanadas por cuatro personas armadas, entre ellas una mujer. Dos individuos habrían permanecido en el primer nivel, donde funciona la CTC, y los otros habrían subido a otra oficina en el segundo nivel. Habrían golpeado al Sr. Miguel Ángel Lucas Gómez y le habrían amenazado con matarle. Además, habrían ordenado a todos que se desvistieran. Se habrían llevado una cámara fotográfica de la CTC y las pertenencias de las personas presentes, incluyendo el teléfono celular del Sr. Miguel Ángel Lucas Gómez y de otro trabajador de la CTC. Se expresaron temores por la seguridad de los miembros de la Central de Trabajadores del Campo de Guatemala, en particular teniendo en cuenta las actividades que habría llevado a cabo recientemente Miguel Ángel Lucas Gómez. El sindicalista habría tenido enfrentamientos con representantes empresariales por la discusión sobre el salario mínimo. Recientemente habría recurrido a las cortes en contra del Alcalde Municipal de Guatemala para asegurar permisos para vendedores callejeros para comerciar en áreas públicas. Anteriormente, Miguel Ángel Lucas Gómez habría tenido que suspender su línea telefónica domiciliar por haber recibido llamadas amenazantes.

215. El 24 de octubre de 2005, la Representante Especial envió un llamamiento urgente en relación con **Romeo Monterrosa Orellana**, abogado que trabaja en la defensa de los derechos humanos de los campesinos. Según la información recibida, el 30 de septiembre de 2005, Romeo Monterrosa Orellana habría recibido un mensaje de texto en su teléfono móvil mientras que estaba en las oficinas del procurador general, en una reunión para discutir casos de derechos agrarios. El mensaje habría dicho “sabes que sos un hijo puta y que todo lo que has hecho en tu puta vida lo vas a pagar con lo que más quieres”. Dos días antes, una camioneta habría seguido a

su esposa hasta el trabajo. El 8 de octubre, durante la noche, un intento de robo en la oficina de Romeo Monterrosa Orellana habría fracasado. El 11 de octubre, el Grupo de Apoyo Mutuo (GAM), una organización no-gubernamental de derechos humanos, habría denunciado estos incidentes ante la Corte Suprema y habría pedido una investigación. El 16 de octubre de 2005 por la tarde, la esposa del abogado habría recibido tres mensajes de texto en su teléfono móvil, los cuales habrían parecido provenir de su marido. El primero habría dicho “Comuníquese conmigo, me urge hablarle”, el segundo: “Le estoy llamando, devuélvame la llamada”, y el último: “Comuníquese”. Su esposo no le habría mandado aquellos mensajes. Se teme que el acoso en contra de **Romeo Monterrosa Orellana** estuviera relacionado con su trabajo como abogado, en particular como representante de GAM en los procedimientos iniciados por la fiscalía estatal en la acusación contra el propietario de la hacienda ‘El Corozo’ por el asesinato de ocho trabajadores durante las protestas contra el terrateniente el 24 de enero de 2005. Según la información recibida, las familias de los ocho trabajadores habrían retirado sus acusaciones, al parecer presionadas por el terrateniente. En abril de 2005, el juez José Víctor Bautista Orozco (quien fue el sujeto de una comunicación enviada por el Relator Especial sobre la independencia de magistrados y abogados el 24 de octubre de 2005) habría sido apartado del caso y habría sido asesinado unos días después. Además Romeo Monterrosa Orellana representa a los trabajadores agrícolas que reclaman la propiedad de la hacienda ‘Colonia La Catorze’ en Puerto San José. La hacienda habría sido vendida a una empresa panameña en 1996, pese a que la Constitución prohíbe que las personas o entidades no guatemaltecas posean propiedades en un área de 15 kilómetros desde las fronteras del país. El Procurador General habría sido el notario que autorizó la venta. Se expresaron temores por la vida y la seguridad física de Romeo Monterrosa Orellana y sus familiares.

216. El 18 de noviembre de 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, envió un llamamiento urgente en relación con la **Asociación de Mujeres Ixqik**, una organización que coordina con la Pastoral Social del Vicariato de Petén (Iglesia Católica) y brinda asistencia jurídica a mujeres víctimas de violación. Según la información recibida, el 31 de octubre de 2005, aproximadamente a mediodía, al llegar a las oficinas ubicadas en Santa Elena, Petén, las empleadas de la Asociación habrían notado que alguien había roto la cerradura y había forzado la puerta. Los perpetradores se habrían llevado una cámara con fotografías de una marcha en Santa Elena, capital de Petén, el 27 de octubre de 2005, que la Asociación habría encabezado en apoyo a una mujer de 50 años que había sido violada. Cabe destacar que otros objetos de valor, como ordenadores, dinero y una tarjeta de crédito, no habrían sido sustraídos. Las empleadas denunciaron el incidente a la policía. El 7 de noviembre de 2005, las oficinas habrían sido nuevamente allanadas. Esta vez, habrían sido sustraídos numerosos archivos, incluyendo una lista con las direcciones particulares y los números de teléfono de todas las empleadas, e información sobre el trabajo que hace la Asociación. Además, habrían intentado abrir el archivador en el que había copias de expedientes de casos de violación, pero no lo habían conseguido. El 9 de noviembre de 2005, las oficinas habrían sido allanadas otra vez. Se habrían llevado un televisor y un reproductor de DVD, así como todos los archivos relativos a otros procedimientos judiciales. Según los informes, el 11 de noviembre de 2005, una solicitud habría sido sometido ante la Comisión Interamericana de Derechos Humanos para que se dicten “medidas cautelares” a favor de la Asociación. Hasta ahora la organización no habría recibido ninguna protección. Se expresaron temores dichos actos de hostigamiento estuvieran

relacionados con el trabajo que lleva a cabo la organización, en particular porque estos allanamientos han ocurrido en días en que estaba previsto que el tribunal escuchara los alegatos finales en el caso de la víctima de violación de 50 años de edad a la que la Asociación está respaldando.

### **Comunicaciones recibidas**

217. Por carta con fecha 11 de noviembre de 2005, el gobierno de Guatemala transmitió la siguiente información en respuesta a la comunicación urgente del 18 de enero de 2005 relativa al Sr. **Leonel García Acuña**. Como primera medida, se constató que los miembros del sindicato de Trabajadores no interpusieron denuncia ante la Procuraduría de los Derechos humanos de Guatemala. Por otro lado, el Estado de Guatemala, a través de la Comisión Presidencial Coordinadora de Política del Ejecutivo en materia de derechos humanos (COPREDEH) precedió a gestionar la investigación de los hechos. El 28 de febrero, la COPREDEH solicitó información al Ministerio Público, a través de la fiscalía especial sobre delitos contra sindicalistas y a la fiscalía especial del departamento de Chimaltenango. El 6 de abril, el Ministerio Público contestó que dentro de sus archivos no se localizó ninguna denuncia del Sr. García Acuña y estableció que en la Fiscalía Especial de Santa Lucía Cotzumalguapa, se investiga la denuncia interpuesta por el alcalde municipal contra el Sr. Leonel García Acuña y otros miembros del sindicato.

218. Por carta con fecha 22 de junio de 2005, el gobierno de Guatemala transmitió la siguiente información en respuesta a la comunicación del 22 de febrero de 2005. El Gobierno informo que según el informe rendido a la Comisión Presidencial de Derechos Humanos, por parte de la Oficina de la Policía Nacional Civil, de fecha 6 de abril de 2005, el 3 de febrero de 2005 se tomaron las acciones por parte de la PNC, para garantizar la seguridad de **Sara Poroj** y otras trabajadoras de la Organización Grupo de Apoyo Mutuo (GAM). Se han realizado las siguientes acciones: Se les proporciono seguridad de tipo preventivo a los señores Sara Poroj y Sergio Hernandez a través de la Comisaria 51 del Departamento de Alta Verapaz, durante el desplazamiento de los señores Sara Poroj y Sergio Hernandez desde el Municipio LA Trinitaria hasta Playa Grande, Ixcán Quiché. Así mismo el 4 de febrero de 2005 la Comisaria 71 del Departamento de Quiché se encargó de coordinar con otras subestaciones departamentales de la Policía Nacional Civil, para resguardar el trayecto de los señores Sara Poroj y Sergio Hernandez a la ciudad de Guatemala. El Ministerio Público informa que en la Fiscalía de Derechos Humanos se investiga la denuncia de Sara Poroj. El gobierno observo que es importante anotar que el ataque sistemático en contra de defensores de derechos humanos en Guatemala se continúa investigando por las instituciones y autoridades correspondientes. Sin embargo el gobierno señalo que las autoridades no han logrado determinar el origen de estos actos delictivos y tampoco han determinado el patrón de los ataques. El Gobierno está informado que a nivel nacional e internacional hay preocupación por los hechos ocurridos y la situación de inseguridad en que se encuentran los defensores de derechos humanos en el país.

219. Por carta con fecha el 9 de noviembre de 2005, el gobierno de Guatemala ante las Naciones Unidas transmitió la siguiente información en respuesta a la comunicación de 10 de octubre de 2005. El gobierno informo que como consecuencia a la denuncia de allanamiento en las oficinas de las Centrales de Trabajadores del Campo la Comisión Presidencial de Derechos Humanos visito a la sede de esa organización con el fin de informarse sobre los extremos de los hechos y solicito la implementación de medidas de protección consistentes en seguridad de puesto

fijo en la sede de la organización y en la residencia del Señor **Miguel Angel Lucas Gomez**. Según la información brindada por el Ministerio Público el día 26 de octubre se estableció que los hechos denunciados del día 27 de septiembre de 2005 fue acto delictivo efectuado por la delincuencia común y que la denuncia sobre supuestas agresiones en contra del señor Miguel Angel Lucas Gomez no ha sido establecido por el Ministerio Público. El gobierno informo que el Ministerio Público ya había individualizado a cuatro personas responsables de los hechos denunciados se encontraba en al fase de investigación de cinco o seis personas mas. El Ministerio Público solicito a la intervención del Ministerio de Gobernación para resguardar la vida y la seguridad de los miembros del sindicato CTC.

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

220. Por carta con fecha 14 de febrero de 2005, el gobierno de Guatemala transmitió la siguiente información en respuesta a la comunicación urgente del 5 de febrero de 2004 relativo a **Orlando Joaquin Blanco Lapola**. La Misión informo que el gobierno había adoptado las medidas necesarias para proteger la vida, la integridad, y la seguridad del señor Blanco Lapola. La prestación del servicio de protección ha consistido en seguridad del tipo perimetral en su lugar de residencia y la sede del Centro Internacional de Investigación de Derechos Humanos. La Comisión Presidencial de Derechos Humanos monitoreo el cumplimiento de las medidas de protección a través de la Unidad Coordinadora de Protección a Defensores, Administradores y Operadores de Justicia, Periodistas y Comunicadores Sociales. El Ministerio Público concluye que se determino la procedencia de las llamadas telefónicas, se presume que estas se realizaban desde un teléfono público cerca de las oficinas de la Oficina de Responsabilidad Profesional de la Policía Nacional Civil, sin embargo en las investigaciones no se logro identificar a las personas responsables. La Comisión Presidencial de Derechos Humanos solicito con fecha 6 de septiembre de 2004, información referente a las investigaciones practicadas como resultado de la denuncia de amenazas telefónicas por este órgano responsable de la persecución penal, pero a la fecha de escribir no presento contestación a las solicitudes de la Comisión Presidencial de Derechos Humanos.

221. Por carta con fecha 14 de febrero de 2005, el gobierno de Guatemala ante las Naciones Unidas transmitió la siguiente información en respuesta a la comunicación urgente del 5 de marzo de 2004 relativa a **Eloída Mejía Samayoa y Enrique Alcantará**. El 6 de agosto de 2004, la Comisión Presidencial de Derechos Humanos (COPREDEH), reiteró la solicitud de información sobre avances en las investigaciones de los hechos denunciados. La fiscalía Especial de derechos humanos informó que el día 24 de febrero de 2004, la Sra **Argelia Eloída Mejía Samayoa** interpuso una denuncia contra sujetos desconocidos que actuaron en contra de las actividades desarrolladas por la “Asociación Amigos del lago de Izabal” que organizó un foro en el Salón municipal del Estor, el 21 de febrero. Ese día, una multitud asistió a las afueras del Salón municipal pero como no tenía invitación ingresaron por la fuerza, manifestando que querían trabajo y desarrollo para la actividad minera y gritando consignas contra la Sra. Mejía Samayoa. El Estado de Guatemala, a través del Ministerio público, solicitó protección personal y seguridad perimetral por la Policía Nacional Civil las 24 horas del día. El 19 de abril, el Ministerio Público tomó declaración a la Sra Mejía Samayoa. Varias personas están siendo investigadas. En las diligencias de investigación se solicitó la declaración de varias personas en julio de 2004. El 8 de julio, se practicaron planimetrías, inspecciones oculares y fotografías

forenses de la sede de la Organización. Actualmente las investigaciones se encuentran en fase preparatoria.

222. Por carta con fecha 14 de febrero de 2005, el gobierno de Guatemala transmitió la siguiente información en respuesta a la comunicación urgente del 19 de marzo de 2004 relativa a los Sres. **Victoriano Zacarías Mindez, Wilson Carreto y Miguel Angel Ochoa**. La Comisión Presidencial de Derechos Humanos (COPREDEH), informó que tras haber agotado los mecanismos de negociación y diálogo, el Ministerio de Gobernación conjuntamente con el Ministerio Público precedieron a desalojar las vías públicas de la Ciudad de Guatemala, para evitar que se cumpliera la amenaza de provocar la explosión de las Cisternas y arrestar en forma flagrante a los autores y cómplices de la toma. Como resultado del operativo fueron aprehendidos en el lugar de los hechos los Sres. **Victoriano Zacarías Mindez, Wilson Carreto y Miguel Angel Ochoa**. El Ministerio público actuó a través de la Fiscalía Metropolitana 19 e inició las investigaciones por los delitos de Terrorismo y atentar contra la seguridad pública ante el Juez Décimo de Primera Instancia Penal, Narcoactividad y Delitos contra el ambiente de la Ciudad de Guatemala contra los Sres **Zacarías Mindez, Carreto y Ochoa** y 26 conductores más. El Ministerio Público como órgano acusador determinó que ellos y los otros 26 acusados no eran responsables de la amenaza que consistía en derramar gasolina sobre las rutas tomadas, y por lo tanto solicitó la modificación de estos delitos por los de instigar a delinquir y atentar contra la seguridad pública. En consecuencia, los Sres **Zacarías Mindez, Carreto y Ochoa** y los otros 26 conductores, se acogieron al mecanismo de Procedimiento Abreviado contemplado en el Código Procesal Penal, declarándose culpables de los hechos imputados y por tal razón obtuvieron la conmutación de la Pena de prisión recobrando su libertad en forma inmediata. El Gobierno señala que las detenciones de los Sres **Zacarías Mindez, Carreto y Ochoa** y de los demás conductores se realizaron de conformidad con los derechos humanos y libertades individuales.

223. Por carta con fecha 11 de noviembre de 2005, el gobierno de Guatemala transmitió la siguiente información en respuesta a la comunicación urgente del 19 julio de 2004 relativa a **Herminio Gonzalez**. El 1 de marzo de 2005, funcionarios de la COPREDEH sostuvieron una reunion con el señor Herminio Gonzalez en la cual manifesto que desconocio de donde provienen las amenazas e intimidaciones en su contra, ocurridas en junio de 2004. EL 5 de marzo de 2005 funcionarios de la COPREDEH sostuvieron una reunion con el señor Hector Rodrguez Quiroa, Subcomisario de la Policia Nacional Civil y jefe de la Comisaria 23 del Departamento de Chiquimil, con el objeto de coordinar las medidas de seguridad a favor del señor **Herminio Gonzalez**, por lo que en esa misma fecha comenzo la prestación del servicio de proteccion a favor del señor Herminio Gonzalez. No habia sido identificar a los responsables de las llamadas telefonicas amezantantes porque se originaron de telefonos publicos. El gobierno informo que el 10 de marzo de 2005 el señor **Herminio Gonzalez** manifesto que las amenazas proferidas en su contra denunciadas con fecha 7 de julio de 2004 hasta la fecha de escribir no habian persistido.Hasta la fecha de escribir se continuaba prestando las medidas de seguridad de tipo personal y de tipo perimtral en su vivienda.

224. Por carta con fecha 31 de enero de 2005, el gobierno de Guatemala transmitió la siguiente información en respuesta a la comunicación urgente del 9 de agosto de 2004 relativa a la seguridad de los miembros del **Centro para la acción Legal en Derechos Humanos (CALDH)**. El 2 de abril de 2003, el Estado de Guatemala a petición de la Comisión interamericana de

derechos humanos, otorgó medidas cautelares a favor del personal del CALDH de una duración de seis meses, que consistían en rondas perimetrales. El 17 de julio de 2004, tras el allanamiento de la residencia de la directora y de las oficinas del CALDH, la Comisión Presidencial Coordinadora de la Política del Ejecutivo en materia de derechos humanos (COPREDEH), coordinó las acciones de protección, estableciendo una extensión de las medidas de protección que consiste en seguridad de tipo perimetral en horario nocturno y de puesto fijo entre las ocho horas hasta las veinte horas por cuatro agentes de la Policía Nacional Civil con turno de veinticuatro horas. Respecto a la seguridad de la Sra Edda Gaviola, se acordó medidas de protección tipo perimetral en su residencia brindada por agentes de la Policía Nacional Civil, según lo acordado el 17 de julio de 2004. La COPREDEH solicitó al Fiscal especial de derechos humanos informe sobre los avances de los hechos denunciados y se encuentra en espera de recibir el informe.

225. Por carta con fecha 14 de febrero de 2005, el gobierno de Guatemala transmitió la siguiente información en respuesta a la comunicación urgente del 19 de octubre de 2004 relativa a **Luis Alberto López Batzín** y personal de la auxiliatura departamental de derechos humanos de Coatepeque. La Comisión Presidencial de derechos humanos, COPREDEH, coordinó medidas de protección carácter urgente. El Estado de Guatemala instruyó a la institución policial a cargo de la comisaría 416<sup>a</sup>, la cual prestó servicio de protección de puesto fijo en la sede de la PDH como mecanismo preventivo. Durante el mes de septiembre, la Comisión interamericana de derechos humanos solicitó adoptar medidas cautelares a favor del Sr. **López Batzín**, que no se adoptaron formalmente porque el beneficiario se encontraba fuera de servicio hasta diciembre de 2004. La COPREDEH solicitó a la Procuraduría de derechos humanos convocar al beneficiario a fin de coordinar las medidas de protección pero hasta la fecha no se ha recibido contestación por parte de la institución. En cuanto a las gestiones del Ministerio Público, hasta la fecha, a pesar de sus solicitudes, la COPREDEH no ha recibido contestación referente a los avances de las investigaciones, a fin de identificar y sancionar a los responsables.

226. Por carta con fecha el de febrero de 2005, el gobierno de Guatemala transmitió la siguiente información en respuesta a la comunicación urgente del 28 de octubre de 2004, con relación a **Mario Rene Lopez Sagastume**. El gobierno informo que se logro establecer que de conformidad con el expediente numero 11,183 del ano 2004, el señor Mario Rene Lopez Sagastume presento una denuncia el día 7 de octubre de 2004 indicando que ese mismo día solicito recurso de exhibición personal a favor del Reo Hugo Enrique Izquierdo Banini, testigo clave de un caso de impacto social. En los registros de la Oficina de Atención Permanente de la Fiscalía Distrital del Ministerio Publico de Escuintla, aparecia como victima, el señor **Mario Rene Lopez Sagastume**, unicamente del delito de hurto. El gobierno senalo que no era posible trasladar la información requerida, en tanto no existaba una denuncia sobre las amenazas a **Mario Rene Lopez Sagastume**.

227. Por carta con fecha 14 de febrero de 2005, el gobierno de Guatemala transmitió la siguiente información en respuesta a la comunicación urgente del 15 de julio de 2004. El gobierno informo que las primeras diligencias del Ministerio Publico y del Servicio Medico Forense de la ciudad de Coatepeque del Departamento de Quetzaltenango, determino que si existio caso de violación sexual en contra de **Mincy Magali Elias Aguilar**, el día 6 de julio de 2004. La Comision Presidencial de Derechos Humanos se encontraba a la espera de los resultados de las investigaciones practicadas por el Ministerio Publico.

228. Por carta con fecha 14 de febrero de 2005, el gobierno de Guatemala transmitió la siguiente información en respuesta a la comunicación urgente del 7 de octubre de 2004, en relación con el Centro al Migrante. El gobierno informó que se encontraba realizando los hechos, así mismo determinó a través de entrevistas con los miembros de las organizaciones de derechos humanos manifiestan que una de las formas de actuación ha consistido en allanamientos ilegales encubiertos como acciones de la delincuencia común, pero en el contexto presuntamente demuestran mecanismos de intimidaciones y amenazas previas, robo o sustracción de información de las organizaciones de derechos humanos. El gobierno informó que se encontraba a través de su Órgano de Investigación realizando en cada uno de estos casos la etapa preparatoria, a través de la Fiscalía Especial de Delitos cometidos en contra de Defensores de Derechos Humanos y la Sección de Robos y Atracos de la Policía Nacional Civil. En cuanto se tuvieran reportes de los avances en los procesos se estarían enviando para la individualización de los responsables, juzgamiento y sanción.

### Observations

229. The Special Representative thanks the Government of Guatemala for its prompt replies to most of her communications in 2005 and for its responses to her communications of 2004.

230. She welcomes the numerous steps that the Government reports having taken to address the many concerns raised in her numerous communications. She is particularly encouraged by the opening of investigations, the efforts to address the issue of the safety of human rights defenders through measures of protection and the spirit of cooperation which the Government has displayed.

231. Nevertheless, she notes that investigations have not yielded results allowing for impunity to be curbed and perpetrators of violations to be brought to justice. She thus remains concerned with regards to the situation of human rights defenders in Guatemala in view of the numerous cases of threats, harassment and raids of which they continue in a context of impunity to the victims of.

## Honduras

### Comunicaciones enviadas

232. El 4 febrero 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente con respecto a miembros del Consejo Indígena de la Comunidad de las Olominas, en su país; en particular, los activistas agrarios indígenas **Genaro Vásquez Lorenzo** y **Roberto Chicas Mejía**. Según la información recibida, el 31 de diciembre de 2004, Genaro Vásquez Lorenzo, Roberto Chicas Mejía e Higinio Hernández Vásquez, secretario del Consejo Indígena de la Comunidad de las Olominas, habrían estado de visita en la localidad de Planes, cuando habrían sido objeto de una emboscada tendida por dos hombres armados que les habrían disparado. Como consecuencia de los disparos Higinio Hernández resultó muerto. Tras el homicidio se habrían producido amenazas de muerte a los dos testigos si declaraban sobre el asesinato. A pesar de las amenazas, Genaro Vásquez Lorenzo y Roberto Chicas Mejía habrían prestado declaración ante las autoridades y habrían identificado a uno de los asesinos como un

hombre de las Olominas que se ha opuesto a los esfuerzos del Consejo Indígena al cual ellos pertenecen. Según la información recibida, se teme que su integridad física pueda estar en peligro debida a las continuas amenazas recibidas. De acuerdo con las informaciones recibidas, se cree que este incidente formaría parte de una campaña de intimidación contra los habitantes de las Olominas para que renuncien a sus derechos sobre la tierra. Según los informes, Higinio Hernández Vásquez, antes de su asesinato, habría recibido varias amenazas de muerte en relación con su trabajo en pro de los derechos comunitarios sobre la tierra. A pesar de haber denunciado las amenazas se informa que nunca consiguió protección. Se expresaron temores las amenazas recibidas por Genaro Vasquez Lorenzo y Roberto Chicas Mejia sigan, y tuvieran relación con su trabajo como activistas agrarios indígenas y que la mismas amenazas sean finalizadas a obligarlos a renunciar a un nuevo título de propiedad comunitaria de la tierra, que el Consejo Indígena de la Comunidad de las Olominas ha tratado de obtener del Instituto Nacional Agrario (INA) desde 1996.

233. El 16 de junio de 2005, la Representante Especial envió una carta de alegación en relación con **Edickson Roberto Lemus**, coordinador de la Central Nacional de Trabajadores del Campo (CNTC), organización que trabaja en favor de los derechos de campesinos en Honduras, habría fallecido el 24 de mayo de 2005. Según la información recibida, el 24 de mayo de 2005, hacia las once y media de la mañana, un hombre (cuya identidad es conocida por la Representante Especial) habría subido al autobús en que estaría viajando Edickson Roberto Lemus. Le habría disparado cuatro veces causándole la muerte inmediata. De acuerdo con los informes, el asesino habría abandonado el autobús por un vehículo que le esperaba supuestamente a corta distancia, no obstante habría sido detenido aproximadamente una hora después, inicialmente por posesión ilegal de armas pero luego habría sido reconocido por cinco testigos como el autor del asesinato de Edickson Roberto Lemus. Según se alega, para asegurar que la investigación del asesinato de Edickson Roberto Lemus siguiera, es necesario que los testigos den oficialmente su testimonio ante un tribunal. Por el momento, los testigos tienen temor por su seguridad, y se alega que testificarían sólo si pudieran proteger su identidad personal, pero habrían sido informados por el juzgado responsable de la investigación que un testimonio bajo otro nombre no sería reconocido. Se expresaron temores que el asesinato de Edickson Roberto Lemus pudiera estar directamente relacionado con su trabajo de defensor de derechos humanos, en particular, su apoyo a la Comunidad de Pajuiles, una comunidad que habría sido desalojada el 19 de mayo de 2005 por orden del Juzgado de Letras Seccional De El Progreso, Yoro. Según los informes, después del desalojo Edickson Roberto Lemus habría sido avisado de que lo matarían si volvía otra vez a la comunidad. La amenaza habría sido denunciada ante las autoridades, quienes le habrían informado que no podrían tomar ninguna acción. De acuerdo con la información, en el momento del asesinato, **Edickson Roberto Lemus** se estaría dirigido hacia el Grupo Renacer en dicha comunidad.

234. El 16 de septiembre de 2005, la Representante Especial envió un llamamiento urgente en relación con con la Sra. **María Antonia Caballero**, y los Sres. **José Gumersindo Padilla Santos**, **Wenceslao Santos Cardona**, **Orlando Arturo Ortiz Nájera**, y **Javier Padilla Santos**, miembros activos de la Central de Patronatos de La Venta, Guanaco (CEPAVEG), una organización comunal que representa los habitantes de la comunidad de La Venta, Guanaco, en el departamento de Olancho, con el propósito de mejorar los servicios y proteger los intereses de aquella comunidad. La organización se opone a la instalación del proyecto de la compañía hidroeléctrica ENERGISA, la cual es sostenida por las autoridades hondureñas. De acuerdo con

las informaciones recibidas: –El 27 de marzo 2005, a las 20:30 aproximadamente, Orlando Arturo Ortiz Nájera habría sido interceptado por tres agentes, cuando estaba de camino a casa. Los agentes habrían intentado apoderarse de su arma, por la cual tiene el permiso de armas correspondiente expedido por la autoridad competente. Orlando Arturo Ortiz Nájera habría mantenido que los agentes sólo podían requisarle el arma si él hubiera cometido algún delito. Los agentes le habrían dicho que volverían a intentarlo mediante una orden legal de detención. – El 29 de marzo 2005, a las 22:00 aproximadamente, José Gumersindo Padilla Santos habría sido golpeado por un agente mientras volvía a casa. Le habría llevado a la celda de un puesto policial y no lo liberaron hasta la mañana siguiente a las 9:00. Antes de liberarle lo habrían obligado a barrer y recoger la basura del puesto policial y de una casa al lado de la misma. –El 30 de julio 2005, a las 17:00 aproximadamente, Orlando Ortiz Nájera y Javier Padilla Santos habrían estado en una pulpería en La Venta cuando seis agentes del “Escuadrón Cobras” de la Policía Nacional habrían ordenado a todos a que se pusieran contra la pared para hacer un registro. Orlando Ortiz Nájera habría preguntado por qué los hostigaban tanto si no habían cometido ningún delito. Uno de los agentes le había respondido que “mejor se callara” porque él y Javier Gumersindo Padilla tenían orden de captura. Según los informes, les llevaron al puesto de policía sin dejarles leer a ningún orden de captura. Desde el puesto de policía los habían trasladado al Juzgado de Catacamas. Habían sido liberados casi inmediatamente porque en dicho despacho no existía proceso pendiente. El 2 de agosto 2005, a las 19:00 aproximadamente, Wenceslao Santos Cardona habría sido detenido por tres agentes del puesto policial de la comunidad de El Ocotál, por haberse opuesto a que la compañía hidroeléctrica ENERGISA le instale el servicio de luz eléctrica. Según los informes, lo habían visto como un acto personal de oposición al proyecto. El 2 de agosto 2005, María Antonia Caballero habría sido detenido, por haber manifestado su opinión sobre la detención de Wenceslao Santos Cardona, cuando acudió a visitarle. María Antonia Caballero y Wenceslao Santos Cardona fueron liberados ese mismo día. El 3 de agosto 2005, a las 19:30 aproximadamente, María Antonia Caballero habría sido detenida otra vez cuando agentes de la policía, que rondaban su casa, la habrían escuchado hablar de denunciar, ante la Fiscalía y organismos de defensa de los derechos humanos, su detención arbitraria, y la de Wenceslao Santos Cardona, el día anterior. Habría sido trasladada al puesto de policía de Guanaco. Según los informes, el sargento del puesto de policía habría informado a los agentes que habían cometido una detención ilegal y la liberó. El 20 de agosto 2005, durante la noche, dos agentes de la Policía Nacional asignados al puesto de policía de El Ocotál habrían comenzado a disparar sus armas en frente de la casa de Orlando Arturo Ortiz Nájera. A la luz de estas detenciones y actos de hostigamiento por los agentes estatales, se expresó preocupación por la seguridad e integridad física de la Sra. María Antonia Caballero, y los Sres. José Gumersindo Padilla Santos, Wenceslao Santos Cardona, Orlando Arturo Ortiz Nájera, y Javier Padilla Santos y todos los miembros de CEPAVEG.

235. El 3 de octubre de 2005, la Representante Especial envió un llamamiento urgente en relación con el Dr. **Juan Almendares Bonilla**, director ejecutivo del Centro de Prevención, Tratamiento y Rehabilitación de las Víctimas de Tortura y sus Familiares (CPTRT). Según las informaciones recibidas: El 12 de septiembre de 2005, el Dr. Juan Almendares Bonilla habría descendido de su automóvil cerca de la entrada de la clínica donde presta atención médica gratuita, cuando dos desconocidos, viajando en una motocicleta, le habrían interceptado. Uno de los hombres le habría puesto un arma de 9mm en la sien y le habría exigido su teléfono móvil. Se lo habría quitado y los dos se habrían marchado. No le habrían robado ningún otro objeto de valor, como su cartera por ejemplo. Esto podría indicar que los asaltantes querían el teléfono móvil para

obtener información sobre sus contactos y las personas con las que trabaja. Posteriormente, durante la noche del 18 de septiembre de 2005, el Dr. Almendares Bonilla y sus familiares habrían recibido llamadas de teléfono de personas desconocidas, que habrían preguntado por su paradero. Además, el 19 de septiembre de 2005, el administrador de la oficina del CPTRT habría encontrado que el marco de la puerta de la oficina habría sido forzado, casi hasta el punto de ser roto, en un intento de robo. Se expresaron temores que estos actos de hostigamiento contra el Dr. Juan Almendares Bonilla y el CPTRT pudieran estar relacionados con sus actividades en defensa de los derechos humanos, en particular porque la organización ha criticado frecuentemente al Gobierno en relación con cuestiones como la posible implicación de la policía en la ejecución extrajudicial de niños y las condiciones de reclusión.

236. El 24 de octubre de 2005, la Representante Especial envió un llamamiento urgente en relación con **Romeo Monterrosa Orellana**, abogado que trabaja en la defensa de los derechos humanos de los campesinos. Según la información recibida, el 30 de septiembre de 2005, Romeo Monterrosa Orellana habría recibido un mensaje de texto en su teléfono móvil mientras que estaba en las oficinas del procurador general, en una reunión para discutir casos de derechos agrarios. El mensaje habría dicho “sabes que sos un hijo puta y que todo lo que has hecho en tu puta vida lo vas a pagar con lo que más quieres”. Dos días antes, una camioneta habría seguido a su esposa hasta el trabajo. El 8 de octubre, durante la noche, un intento de robo en la oficina de Romeo Monterrosa Orellana habría fracasado. El 11 de octubre, el Grupo de Apoyo Mutuo (GAM), una organización no-gubernamental de derechos humanos, habría denunciado estos incidentes ante la Corte Suprema y habría pedido una investigación. El 16 de octubre de 2005 por la tarde, la esposa del abogado habría recibido tres mensajes de texto en su teléfono móvil, los cuales habrían parecido provenir de su marido. El primero habría dicho “Comuníquese conmigo, me urge hablarle”, el segundo: “Le estoy llamando, devuélvame la llamada”, y el último: “Comuníquese”. Su esposo no le habría mandado aquellos mensajes. Se expresaron temores que el acoso en contra de Romeo Monterrosa Orellana estuviera relacionado con su trabajo como abogado, en particular como representante de GAM en los procedimientos iniciados por la fiscalía estatal en la acusación contra el propietario de la hacienda “El Corozo” por el asesinato de ocho trabajadores durante las protestas contra el terrateniente el 24 de enero de 2005. Según la información recibida, las familias de los ocho trabajadores habrían retirado sus acusaciones, al parecer presionadas por el terrateniente. En abril de 2005, el juez José Víctor Bautista Orozco (quién fue el sujeto de una comunicación enviada por el Relator Especial sobre la independencia de magistrados y abogados el 24 de octubre de 2005) habría sido apartado del caso y habría sido asesinado unos días después. Además Romeo Monterrosa Orellana representa a los trabajadores agrícolas que reclaman la propiedad de la hacienda ‘Colonia La Catorze’ en Puerto San José. La hacienda habría sido vendida a una empresa panameña en 1996, pese a que la Constitución prohíbe que las personas o entidades no guatemaltecas posean propiedades en un área de 15 kilómetros desde las fronteras del país. El Procurador General habría sido el notario que autorizó la venta. Se expresaron temores por la vida y la seguridad física de Romeo Monterrosa Orellana y sus familiares.

### **Comunicaciones recibidas**

237. Por carta con fecha 24 de junio de 2005, el gobierno de Honduras respondió a la comunicación del 16 de junio de 2005 con relación al asesinato de **Edickson Roberto Lemus**. El Gobierno informó que la Dirección General de Investigación Criminal indicó que se hubieron

identificado a dos personas involucradas en el hecho. Hasta el momento de escribir, faltaba que determinar la participación de otras personas y ya tenían varios argumentos o hipótesis que determinan que se trataba de una muerte por encargo debido a la actividad a que se dedicaba Edickson Roberto Lemus o una venganza personal. El gobierno informo que se determino que Edickson Roberto Lemus había tenido problemas con miembros de la Cooperativa Las Palmas, propietarios de una propiedad de Pajuales de El Progreso, Yoro, la cual esta invadida por tales grupos campesinos.

238. Por carta con fecha el 2 de noviembre de 2005, el gobierno de Honduras respondió a la comunicación del 16 de septiembre de 2005. La Misión informo que la comunicación había sido remitida a la Comisión de Derechos Humanos.

239. Por carta con fecha 18 de noviembre de 2005, el gobierno de Honduras respondió a la comunicación del 3 de octubre de 2005 con relación al doctor **Juan Almendarez Bonilla**. El gobierno informo que el 20 de septiembre del 2005 compareció el señor Juan Almendarez Bonilla a la Fiscalía Especial quien puso en conocimiento que había estado siendo objeto de varias llamadas extrañas en altas horas de la madrugada en su casa de habitación y había escuchado una motocicleta rondando su casa de habitación rondando su casa sobre todo los fines de semana. También denunció que el 12 de septiembre de 2005 mientras se bajaba de su vehículo una motocicleta salto a toda velocidad en la que se conducían dos hombres robustos En fecha 19 de septiembre de 2005 recibió un mensaje que sonó la alarma de la oficina. Se realizó inspección ocular por dos ocasiones según la fecha de las denuncias para constatar los daños ocurridos en las instalaciones. Se constato la denuncia realizada con la observación que en ninguna de las inspecciones se observo violencia en las puertas de acceso a la vivienda, en la segunda inspección realizada se verifico el daño a la puerta interna de la oficina. Entre las diligencias de investigación que se habían relazado por parte de la Fiscalía eran: Inspecciones oculares con le fine de constatar los daños ocasionados en las instalaciones del CPTRT, se tomaron declaraciones testificales a los empleados a los empleados del CPTRT a al ofendido Dr. Juan Almdares Bonilla, se solicito al departamento de Inspecciones Oculares de la Dirección General de Investigación Criminal el informe sobre las inspecciones y las requisas realizadas en las instalaciones antes referidas. Se remitió nota al Ministro de Seguridad Licenciado Oscar Alvarez poniendo en su conocimiento los antecedentes de los hechos violentos que ocurrieron en la zona donde funcionan las oficinas del CPTRT solicitandole mas presencia policial con el fin de darle mas seguridad. Pendiente concertar audiencia con el Doctor Juan Almdares para realizar retrato hablado de los hombres que le robaron el celular a afecto de reconocerlos. Hasta el momento de escribir el gobierno informo que no se había encontrado algun indicio racional que se indico que agentes del estado estuvieron involucrados en los actos. Hasta esta fecha no habían encontrado con hechos concretos quienes habían participado.

### **Observations**

240. The Special Representative thanks the Government of Honduras for its responses to several of her communications. She looks forward to receiving further response to her remaining communications.

241. With respect to the murder of **Edickson Roberto Lemus**, she is encouraged by the steps taken by the Government to ensure accountability and hopes that perpetrators will be brought to

justice. She looks forward to receiving further information regarding the progress of the investigations and the judicial process.

242. With regard to **Juan Almendarez Bonilla**, the Special Representative looks forward to receiving further information with regard to the investigations into the alleged incidents.

## India

### Communications sent

243. On 11 May 2005, the Special Representative sent an urgent appeal concerning Mr. **Parvez Imroz**, a lawyer and Council Member of the Asian Federation Against Involuntary Disappearances (AFAD), President of the Jammu and Kashmir Coalition of Civil Society (JKCCS) and Patron of the Association of Parents of Disappeared Persons (APDP). The AFAD is a federation of NGOs that works against enforced or involuntary disappearances, the JKCCS is a coalition of NGOs that work on human rights and democracy in Kashmir, and the APDP is an NGO that works against enforced or involuntary disappearances in Jammu and Kashmir state and is a member of the AFAD and the JKCCS. Mr. Imroz was already subject to an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 5 October 2004, to which the Government replied by letter dated 15 February 2005. According to the information received, on 30 April 2005 at 5.30 am, an unidentified gunman came to Mr. Imroz's house in the Kralpora area, stating that he wanted to discuss a case with him. Reportedly, the door was not opened for the man. Fifteen minutes later, the man allegedly banged on the door and left. The information received indicates that, at this time in the morning, there are restrictions on civilian movement in the Kashmir valley. It was alleged that the man who came to Mr. Imroz's house that morning was a member of the army. Concern was expressed that the reported harassment and intimidation of Mr. Parvez Imroz and his family may have been retaliation for his human rights defence activities. In particular, it was believed that it may have been related to his role in the APDP to organise, in Srinagar on 21 April 2005, the laying of foundation stone for a monument to disappeared persons. The concern was heightened in light of reports indicating that, during the last few years, several human rights defenders have been killed in Kashmir. It was noted that the United Nations Working Group on Disappearances had also raised concern with the Government on the basis of the above information.

244. On 16<sup>t</sup> August 2005, the Special Representative, together with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning Dr. **Lenin Raghuvanshi**, a human rights defender with the Peoples' Vigilance Committee for Human Rights (PVCHR), an organisation working for the Dalits and 'lower caste' communities in Varanasi, Uttar Pradesh, India, focussing on education for children, including the setting up of a local school, and the right to self determination for these community members, his associate Mr. **S.N. Giri**, and Ms. **Anupam Nagvanshi**, field coordinator for PVCHR. According to the information received, on 5 August 2005, at approximately 8:00, Dr. Raghuvanshi allegedly received a phone-call, on his mobile phone, from a man (the identity of whom is known to the Special Representative) demanding that Mr. Giri withdraw his nomination from an election due to be held in Belwa village on

17 August 2005. Furthermore, on 7 August 2005, at approximately 20:35, Dr. Raghuvanshi allegedly received another phone-call from the same person threatening that if his associate did not withdraw his nomination, Dr. Raghuvanshi, his family and Mr. Giri would be shot dead. Dr. Raghuvanshi recorded the phone conversation and lodged a complaint with the Senior Superintendent of the Police and the District Magistrate. He had reportedly also faxed a complaint to the Chief Minister of the State. It was reported that on 10 August 2005, at approximately 16:00, Ms. Nagvanshi, was surrounded by a number of people (the identity of whom is known to the Special Representative) who asked her why she was encouraging the Dalits and 'lower caste' community to cast their votes in the upcoming election. Ms. Nagvanshi was allegedly threatened with murder if she returned to Belwa village. Ms. Nagvanshi telephoned the police at approximately 18:00 on 10 August 2005 but no officer was dispatched. She then sent a written complaint by registered post to Phoolpur police station. It was reported that no action has been taken in this case by the Phoolpur police. Concern was expressed for the harassment of individuals working with the Dalits and 'lower caste' communities. In light of the fact that the Belwa village and its surrounding areas are reportedly known for booth capturing and election related fraud, and that during the February 2002 elections, people from these communities were allegedly assaulted when they turned out to vote, concern was expressed that these threats constituted an attempt to intimidate Dr. Raghuvanshi, Mr. Giri and Ms. Nagvanshi and prevent them from carrying out their human rights work with the Dalits and 'lower castes' in Varanasi. Previously on 26 August 2003, Dr Raghuvanshi had been arrested and detained for four hours for organising a protest before the Sub Divisional Magistrate in Varanas.

245. On 26 September 2005, the Special Representative, together with the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal regarding Ms. **Ritu Chaudhary** and Mr. **Mohammad Musa Azami**. According to information received, on 13 August 2005, MsChaudhary's brother, Sabash Chaudary, attempted to rape her at their home. Ms. Chaudhary ran away and went to stay with her other brother, Ravi Chaudary, and his wife Reshma, a Muslim woman. Neither family was happy with the marriage between Reshma, a Muslim woman and Ravi, a Hindu Dalit. Ms. Chaudhary, with the help of Mr. Musa Azami, the State co-ordinator for the National Campaign on Dalit Human Rights, sent a letter of complaint to the Jaitpura station officer as well as to the Superintendent of Police and Director General of Police in Varanasi concerning her attempted rape. Her case has been registered before the courts. The fathers of both Ms. Chaudhary and Reshma, angered that Mr. Musa Azami and Manoj Gupta had helped Ravi Chaudary and Reshma remain together and for having helped Ms. Chaudhary file a complaint against Mr. Chaudary's son, informed the police that Mr. Musa Azami, Manoj Gupta, another human rights activist, and Ravi Chaudary had kidnapped Reshma. A First Information Report (FIR) was lodged by the police against Mr. Musa Azami, Manoj Gupta, Ravi and Ms. Chaudhary for kidnapping Reshma. On 18 August 2005, the four were arrested. Mr. Musa Azami was badly beaten by the police both at his house where he was arrested and at the police station and was also forced to confess that he had helped Reshma and Ravi Chaudhary to elope. He was still suffering from dizziness as a result of the beatings he received. The Judge accepted his lawyer's request for medical treatment. Mr. Musa Azami's bail petition hearing was scheduled for 13 September 2005. No action was taken in response to the complaint concerning the attempted rape by Sabash Chaudary. Concern was expressed that Mr. Musa Azami was beaten and arrested because of his well known work for the Dalit community in the area, as State co-ordinator for the National Campaign on Dalit Human Rights.

246. On 7 November 2005, the Special Representative, together with the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteur on trafficking in persons, especially women and children and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation concerning **sexual exploitation of underage girls in Varanasi**, State of Uttar Pradesh. According to the information received, about 50 girls, all of them apparently younger than 18 years, were trafficked from the States of West Bengal, Orissa and Bihar to Varanasi, where they were forced to prostitute themselves at a brothel in Shivaspur, the city's redlight district. The brothel was reportedly operated by Rahmad Khan (also known as Rahmad Ali) and his wife Afzel. On 24 October 2005, Mr. **Ajeet Singh**, the founder and president of Guria Swyam Sevi Sansthan, informed police officers at the Maduadih Police Station about this situation. Guria Swyam Sevi Sansthan is a non-governmental organization that helps prostitutes and their children to become aware of their human rights and offers them an alternative lifestyle. Mr. Singh was reportedly told by the police to go to the location and that the police would follow shortly. However, hours later, the police had not arrived. Concerned that the brothel owners would be tipped off by corrupt police officers and move the girls to a different location, Mr. Singh, his wife Sandwana Manju and approximately 200-300 other private volunteers entered and searched the brothel and began to remove the girls from the building. When the police finally arrived at the scene at 6 pm, police officers reportedly tried to prevent Guria workers and the girls from boarding buses taking them to the local police station. Faced with intense protests from Guria volunteers and bystanders, police finally backed down and agreed that the girls can be removed from the area. At this point, only 31 of the estimated 50 girls, who were initially in the building, were still present. The 31 girls were handed over to the police, where they received medical attention and were taken to a local women's shelter. Reportedly, the authorities have since acknowledged that 17 girls are younger than 18 years old. The same day, Ajeet Singh filed a First Information Report (FIR) against Rahmad Khan, Afzel and two minor accomplices alleging violations of the Immoral Traffic Prevention Act (ITPA). While the two minor accomplices were arrested, Rahmad Khan and Afzel managed to escape. It was further reported that a counter FIR was filed against Ajeet Singh for trespassing, robbery, out-raging the modesty of women, rioting and unlawful assembly.

### **Responses received to communications sent in previous years**

247. In a letter dated 4 February 2005 the Government of India responded the communication of 6 October 2004 concerning **Umakanta Meiti**. The Government stated that on 9 September 2004 police personnel of the District Police Imphal East apprehended Umakanta Meiti on suspicion that he might be a terrorist. He was taken to Porompat Police Station for identification and verification. It was decided there was no case against him and Mr. Meiti was released and allowed to go home immediately. The Government stated that he was neither arrested nor tortured.

### **Observations**

248. The Special Representative regrets that at the time this report was finalized no responses had been received from the Government of India to her communications of 2005.

249. The Special Representative thanks the Government of India for their reply to her communication of 6 October 2004 and welcomes the news that Mr. **Umakanta Meiti** was released without charges.

250. The Special Representative notes that no response has been received to her request to conduct a country visit.

## Indonesia

### Communications sent

251. On 16 June 2005, the Special Representative, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning four human rights defenders: **Mugiyanto Sri Suparyati**, Chairman of the Indonesian Association of Families of the Disappeared; **Usman Hamid**, Coordinator of the Commission for Missing Persons and Victims of Violence (KONTRAS); **Abdul Hakim Garuda Nusantara**, Chairman of the National Commission on Human Rights (KOMNAS HAM); and the President of the Trisakti University, **Thoby Mutis**. Members of KONTRAS have already been the subject of communications by the Special Representative on 3 December 2004, 16 August 2004, 3 July 2003, 25 June 2003, and 10 June 2003, as have KOMNAS HAM on 29 October 2003. According to the information received, on 27 May 2005, a letter was sent by fax to the Asian Federation Against Involuntary Disappearances (AFAD), during their workshop on “Protecting persons from enforced or involuntary disappearances” in Bangkok. The letter made death threats against Mugiyanto Sri Suparyati, Usman Hamid, Abdul Hakim Garuda Nusantara and Thoby Mutis, and stated that they would be killed within 14 days. The death threat was signed by a person who identified himself as Mr. Julfikar, “Defender of the New Order”, and accused the aforementioned of affiliating themselves with the Indonesian Communist Party (PKI). Concern was expressed that these death threats may be a result of their work in defending human rights, in particular, the work of KONTRAS, KOMNAS HAM and AFAD in exposing the alleged human rights violations perpetrated under President Suharto. These concerns were heightened by the killing on 7 September 2004 of Mr. **Munir**, the Chairman of AFAD and co-founder of KONTRAS. It was noted that **Usman Hamid** is a member of the official fact-finding team charged with investigating the suspected murder of Mr. Munir.

252. On 23 November 2005, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegation concerning the investigation into the death of Mr. **Munir**, a human rights lawyer and co-founder of human rights group Imparsial and the National Commission for Disappeared Persons and Victims of Violence (Kontras), a group that have allegedly exposed the abduction by the military of several human rights activists in Jakarta. Mr. Munir died on 7 September 2004 aboard a Garuda flight from Jakarta to Amsterdam and was the subject of an urgent appeal by the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders on 3 December 2004. The presidential fact-finding team (TPF) established in December 2004, ended its six month mandate on 23 June 2005 and produced a lengthy report with detailed findings and recommendations. The TPF suggested the involvement of high-ranking intelligence officials and senior employees of Garuda Airlines with Mr. Munir’s death. According to the new information received, since the police took over the

investigation, no progress had been made into investigating the involvement of high-ranking intelligence officials and senior employees of Garuda Airlines, apart from the prosecution of Mr. Pollycarpus, a low ranking Garuda pilot. The four month delay raised questions as to the Prosecution and the police investigation team's commitment to properly investigate the case and to ensure that there is no impunity for Mr. Munir's murder and that those responsible for his death are brought before a fair trial.

### **Communications received**

253. In a letter received on 27 December 2005 the Government of the Republic of Indonesia responded to the communication of 23 November 2005. The Government stated that much progress had been achieved in bringing the facts of the case to light and in arresting viable suspects. The Indonesian police team coordinated their efforts with the Dutch Forensic Institute and questioned over 30 people, including intelligence officials. The Government stated that the TPF began their investigations at the end of 2004 and upon completion of their mandate, they handed their concluding report and investigations to the police. As well as Mr. Pollycarpus Priyanto, other suspects in the case included Garuda's former president director, its vice-president of corporate security, secretary to Garuda's chief of pilots, its vice-president of human resources and two flight attendants who prepared and served Mr. Munir's meal. However, the Government stated, Mr. Pollycarpus Priyanto remained the chief suspect and after five days of interrogation was charged with violating Article 240 of the Criminal Code. His trial began in September 2005.

### **Observations**

254. The Special Representative thanks the Government of Indonesia for its reply to her communication of 23 November 2005, but regrets that at the time this report was being finalized, she had not received a response to her communication of 16 June 2005 concerning **Mugiyanto Sri Suparyati, Usman Hamid, and Abdul Hakim Garuda Nusantara and Thoby Mutis**. While she acknowledges the Government's position with regard to the communication of 23 November 2005 concerning Mr. Munir Said Thalib's murder, she remains concerned that the detailed findings of the TPF investigation team, including those suggesting the involvement of high-ranking intelligence officials and senior employees of Garuda airlines, were not fully taken into account when the authorities proceeded with the case against the sole suspect Mr. Pollycarpus Priyanto who has since been convicted of the murder.

255. The Special Representative also regrets that her request to conduct a country visit was refused by the Government of Indonesia.

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

### **Communications sent**

256. On 15 December 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the question of torture and the Chair of the Working Group on Enforced or Involuntary Disappearances, sent an urgent appeal concerning Mr. **Bahram Mashhadi**, aged 31, and a member of the Bahá'í community.

According to the allegations received, on 1 December 2004, he was arrested by the Iranian intelligence authorities when he arrived to present an appeal on the situation of Bahá'is in Iran to a group called the Eastern Tehran Assembly of Jurists (Majma'-e-Qada'i-e-Sharq-e-Tehran). He was taken to the local police station, where he spent the night. On 2 December, he was transferred to the headquarters of the Prosecutor's Office of the Revolution (Dadsitani-e-Markaz-e-Enghelab), where he was interrogated. Accompanied by a guard, he was subsequently brought back to his home to collect some personal effects and then taken to Evin Prison, Tehran. Since then, his relatives went there on several occasions in order to visit him. Each time, the prison authorities denied any knowledge of him being held there. It was impossible to obtain any further information on Mr. Mashhadi's whereabouts. It was believed his detention is related to a written appeal submitted to the President of the Islamic Republic of Iran on 15 November 2004 on the situation of Bahá'is in Iran, by a group of Iranian Bahá'is on behalf of the entire community. Subsequently, some of the Bahá'is who distributed the message were arrested. Most of these individuals were detained for a short period of time and then released.

257. On 13 January 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning Mrs. **Shirin Ebadi**, 2003 Nobel Peace Prize Winner and Secretary-General of the Defenders of Human Rights Centre, an organisation established in 2002. According to the information received, Ms. Ebadi was summoned on 12 January 2005 by investigating judge n°14 of the Revolutionary Public Prosecutor's office of Tehran. It was reported that the document contained reasons for summoning Mrs. Ebadi but indicates that if she did not appear before the investigating judge within three days, she would be arrested in order to be brought to the investigating judge's office. Concern was expressed that Mrs. Ebadi may be targeted due to her human rights activities. Concern was also expressed that in the past year, Mrs. Ebadi received anonymous letters of threats and that the door of her garage, in Tehran, was damaged several times. She allegedly reported her fears for her security to the authorities but no action had reportedly been taken up to now.

258. On 16 February 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal concerning Mr. **Nasser Zarafshan**, a lawyer of the Bar of Tehran, who was subject to a letter of allegation sent by the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers on 5 December 2003, to which the Government replied by letter dated 18 May 2004. According to the information received, on 2 December 2004, Mr. Zarafshan's health deteriorated after a severe kidney inflammation. He was reportedly hospitalised in Evin prison and on 6 December 2004, his lawyer asked for him to be hospitalised outside the prison. Mr. Zarafshan had later been allowed out of the prison on three occasions, but he has allegedly not been granted enough time to seek adequate medical treatment. The information received indicated that the prison authorities and Mr. Zarafshan's doctor were in support of him receiving adequate medical treatment by a 24 hour leave from the prison. Reportedly, the Tehran prosecutor refused to give Mr. Zarafshan permission for such a leave, allegedly in contravention of Article 291 of the Criminal Procedure

Code. Concern was expressed for Mr. Zarafshan's physical and mental integrity if he did not receive adequate medical treatment.

259. On 10 March 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning the following persons: Ms. **Najmeh Omidparvar**, webmaster of the internet site Tolou Azadi (the dusk of freedom), who was pregnant. According to the information received, Ms. Omidparvar was arrested on 3 March 2005 by the Intelligence Services of the city of Rafсандجان. It was alleged that her husband, a webmaster of another internet site, had also been arrested before her. Ms. **Chahrazad Kariman**, Ms. **Chiva Nazar-Ahari** and Ms. **Fariba Hedayati**, arrested previously for their alleged demonstration in front of the United Nations Office in Tehran, were brought to Court on 1 March 2005 on charges of "illegal participation in a demonstration designed to endanger State security and causing trouble in public opinion in giving interviews in the media". The Prosecutor had requested sentences from two to five years imprisonment. Reports also alleged that on 28 February 2005, agents of the Bassidj paramilitary organisation burned down a womens' publishing company in Tehran. It was also alleged that on 28 February 2005, Security forces of the State and city of Sanandaj, have summoned for interrogation Ms. Diba Alijani, Secretary of the Support Association for Women, for having organised a meeting in commemoration of International Womens' Day, and other related activities regarding Women and Children's Rights in March 2004. Reports also indicated that on 27 February 2005, State Security Forces have forbidden Dr. Roya Toloui, founding member of the Kurdish Womens' Centre for Peace and Human Rights to deliver a speech and have forbidden the Centre's activities.

260. On 16 June 2005, the Special Representative, jointly with the Special Rapporteur on the question of torture, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr. **Nasser Zarafshan**, a lawyer and human rights defender for whom an allegation letter has been sent on 5 December 2003 by the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers; and an urgent appeal sent on 16 February 2005 by the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture. According to the allegations received, Mr. Zarafshan was detained in Evin Prison, suffering from a chronic kidney condition for which he required specialist treatment, unavailable in the prison, according to the Prison Health Section. His requests for medical leave had been blocked by the Chief Prosecutor of Tehran, and he was being held in a cell with violent offenders despite his health condition. He had reportedly undertaken a hunger strike to protest the denial of medical treatment and is currently in a poor condition. His lawyer was denied a visit on 15 June. Mr. Zarafshan was sentenced to five years' imprisonment in March 2002, after a secret trial before a military court for his role in representing the families of two political activists murdered in November 1998 during a series of killings which came to be known as the "serial murders". Moreover, on 9 June outside Evin prison, family members and supporters of Mr. Zarafshan, included prominent human rights and

political activists, were arrested by security forces for having conducted a 'sit-in' protest in solidarity with him. They were released later that day following several hours of interrogation. Several other political prisoners in Evin prison are also said to have begun a hunger strike in solidarity with Mr. Zarafshan. In view of the allegations that Mr. Zarafshan was denied medical treatment, concern was expressed for his physical and mental integrity if he did not receive prompt and adequate medical treatment.

261. On 27 June 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an urgent appeal concerning Mr. **Akbar Ganji**, detained at Evin Prison in area 240. Mr. Ganji was subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on 5 December 2003, 16 February 2005, 16 June 2005. According to the information received since then: Mr. Ganji is still denied medical treatment for his severe asthmatic condition and back pains, and his health has deteriorated. The prison clinic is not equipped to treat asthma. Moreover, the prison doctor indicated the need to take x-rays of his back, which has not been done since the medical facilities provide only out-patient care. Mr. Ganji, in protest of the denial of medical treatment by the prison authorities, had started a hunger strike on 20 May 2005, which he interrupted while on medical leave and has taken up again after his re-arrest on 10 June. He had lost 17 kg since that time. From his return to Evin Prison on 10 June 2005, Mr. Ganji had been kept in solitary confinement. He was not allowed to have any contact even with other prisoners and receive visits from his lawyer or family until 18 June 2005, when his lawyer obtained a special permission from the Tehran Prosecutor General's office, which other prisoners do not need. Afterwards the lawyer and Mr. Ganji's wife were able to visit him. Mr. Ganji was not allowed to make phone calls. He was denied access to newspapers or other sources of news. In view of the allegations that Akbar Ganji is denied medical treatment, concern was expressed for his physical and mental integrity if he did not receive prompt and adequate medical treatment.

262. On 4 August 2005, the Special Representative, together 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 promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning Mr. **Abdolfattah Soltani**, lawyer at the Bar of Tehran and Mrs. **Shirin Ebadi**, 2003 Nobel Peace Prize Winner and Secretary General of the Defenders of Human Rights Centre. Mr. Soltani was the subject of an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers on 24 January 2001. Mrs. Ebadi was the subject of an urgent appeal sent by the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, its causes and consequences on 13 January 2005, and an urgent appeal sent by the Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on extrajudicial, summary or

arbitrary executions on 8 December 2003. According to the information received, on 30 July 2005, Mr. Soltani was arrested while taking part in a sit-in at the Bar of Tehran. He was reportedly protesting against a warrant for his arrest and a search warrant for his home which had been issued following a request made by the Tehran Prosecutor to the Revolution's Court of Tehran on 27 July 2005. Mr. Soltani is currently detained at the Evin Prison in Tehran. Concern was expressed that Mr. Soltani's arrest was allegedly connected to his participation in a court case concerning the death of detainee that was allegedly a result of torture and ill-treatment. Mr. Soltani put into question the independence and fairness of the trial at a hearing in camera on 25 July 2005. On 30 July 2005, Mrs. Ebadi allegedly received a message twice on her answering machine, stating that 'We have Soltani, you are next'. It was reported that Mrs. Ebadi has also been the subject to a campaign of defamation and intimidation in the press as a result of her human rights work for the Defenders of Human Rights Centre. Concern was expressed that the arrest and detention of Mr. Soltani and subsequent threats to Mrs. Ebadi constituted an attempt to intimidate these individuals and prevent them from carrying out their human right work.

263. On 24 August 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the sale of children, child prostitution and child pornography sent an urgent appeal concerning several human rights defenders and journalists, including Dr **Roya Toloui** (f), a human rights activist defending women's rights and Iran's Kurdish minority who is also editor in chief of Resan newspaper, Mr. **Azad Zamani**, a member of the Association for the Defence of Children's Rights from Sinne, Mr. **Jalal Qavani** a journalist, Mr. **Mahmoud Salehi**, a labour rights activist, Mr. **Ujlal Ghavami**, a journalist for the weekly Payam-e mardom-e Kurdistan, Ahti, the Kurdish language daily newspaper, and Asou, the Kurdish and Farsi language weekly newspaper. According to information received, on 3 August 2005, judicial officials in Sanandaj, the capital of Kurdistan, closed Asou. The closure of Ahti followed shortly after. Moreover, on 2 August 2005, Dr. Toloui, who has been a harsh critic of the policies of the Islamic Republic concerning the rights of women and Kurdish minority, and whose organisation the Association of Kurdish Women for the Defence of Peace and Human Rights has been refused legal status, was detained by the police in Sanandaj and had not been given the right to receive visits. She was being charged with endangering national security. Moreover, Mr. Ghavami, Mr. Zamani, Mr. Qavani, and Mr. Salehi were also arrested. The Association for the Defence of Children's Rights has been very active in publicly raising concerns about the administration of criminal cases of minors and has also expressed opposition to the cruel, inhuman and degrading punishment reportedly imposed on children. Furthermore, the managing director for Payam-e mardom-e Kurdistan Mohammad Sadegh Kabovand, was summoned to appear before the Sanandaj court on 4 August 2005. Concern was expressed that Dr. Roya Toloui, Mr. Ghavami, Mr. Zamani, Mr. Qavani, and Mr. Salehi were arrested because of their work in defending human rights, particularly women's and children's rights.

### **Communications received**

264. On 22 August 2005 the Government of the Islamic Republic of Iran replied to the communication of 4 August 2005 concerning **Abdolfattah Soltani**. The Government stated that Mr. **Soltani** was detained based on a law suit filed by the Ministry of Intelligence. The Government stated that he had been charged with disclosing classified information and measures

threatening internal security of the State. He was in temporary detention pending legal proceedings at the time this reply was sent.

### **Responses to communication sent in previous years**

265. In a letter dated 20 December 2004, the Government of the Islamic Republic of Iran replied to the communication of 15 November 2004 sent by the Special Representative, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of Torture and the Chairperson-Rapporteur of the Working Group of Arbitrary Detention concerning Mr. **Omid Memarian**. The Government stated that Mr. Memarian was detained for participating in the establishment of an association against the internal security of the state, activities against the State and dissemination of false accusations. He had been released on bail.

266. In a letter dated 20 December 2004 the Government of the Islamic Republic of Iran replied to the communication of 16 November 2004 sent by the Special Representative, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of Torture, the Chairperson-Rapporteur of the Working Group of Arbitrary Detention and the Special Rapporteur on Violence against women, its causes and its consequences concerning **Mahboobeh Abbasgholizadeh**. The Government stated that Mahboobeh Abbasgholizadeh had been detained for her activities against the state and inspiring immoral acts in society. She had been released on bail.

### **Observations**

267. The Special Representative thanks the Government of the Islamic Republic of Iran for its replies to her communications of 15 November 2004 and 16 November 2004 and 4 August 2005, but regrets that at the time this report was being finalized, she had not received replies to the majority of her communications in 2005 concerning Mrs. Shirin Ebadi (13 January 2005), Mr. Nasser Zarafshan (16 February 2005), Ms. Najmeh Omidparvar, Ms. Chahrazad Kariman, Ms. Chiva Nazar-Ahari and Ms. Fariba Hedayati (10 March 2005), Mr. Nasser Zarafshan (16 June 2005), Mr. Akbar Ganji (27 June 2005) and Mr. Abdolfattah Soltani and Mrs. Shirin Ebadi (24 August 2005).

268. The Special Representative looks forward to receiving information to her communication of 15 December 2004 concerning Mr. Bahram Mashhadi, a Baha'i who is alleged to have been tried in absentia, without an access to any form of legal counsel. Mr. Mashhadi is said to be currently imprisoned in Tehran. The Special Representative remains concerned as to how raising legitimate human rights concerns in a written appeal on behalf of an entire community, particularly one that does not have Constitutional protection, could attract serious charges carrying incarceration sentences.

269. The Special Representative thanks the Government of the Islamic Republic of Iran for its reply of 22 August 2005 concerning Mr. **Abdolfattah Soltani** but looks forward to receiving further information pending the legal proceedings against him.

## Iraq

### Communications sent

270. On 4 March 2005, the Special Representative sent a letter of allegation regarding the deaths of Mr. **Hadi Saleh**, co-founder and International Secretary of the Iraqi Federation of Trade Unions (IFTU), an organization which represents over 200,000 members in the transportation, printing, construction, oil, electricity, railways and food production industries; and Mr. **Ali Hassan Abd** (Abu Fahad), Iraqi labour leader and prominent member of the Oil and Gas Workers Union. According to the information received, on 4 January 2005, several unidentified persons reportedly broke into the Baghdad home of Mr. Saleh where they allegedly tortured and murdered him. According to the source, the body of the deceased, which was blindfolded with the hands and feet tied, showed visible evidence of torture and was strangled with electrical wire. It is reported that the perpetrators may be former members of Saddam Hussein's secret police, the Mukhabarat. Under the former regime, Mr. Saleh had already been targeted for his work in defense of human rights, in particular, in 1969, he was sentenced to death for his independent labour activities but his sentence was commuted after five years in prison. Shortly afterwards, he fled Iraq and settled in Sweden where he continued to work for labour rights in Iraq while in exile. He reportedly returned to Iraq in 2003 after the outbreak of war. According to the information received, on 18 February 2005, Mr. Abd (Abu Fahad) was allegedly murdered while returning home close to the Al Dorah Oil Refinery in Baghdad. Concern is expressed that the killings of Mr. Saleh and Mr. Abd (Abu Fahad) may have been connected with their human rights activities, in particular, their roles in the development of democratic and organized trade union movement in post-Saddam Iraq. Concern is heightened by reports that a number of trade unionists are being targeted. In particular, on 3 November 2004, four railroad workers, **Kasim Shahin**, **Maithem Shaker**, **Ahmed Ibrahim** and **Zeyad Tariq**, were killed and their bodies mutilated. On 25 December 2004, two train drivers **Salah Mehdi Taher** and **Salih Chiyehchan Harbi** were kidnapped, and five other workers beaten. Most recently, on 24 February 2005, **Ahmed Adris Abbas**, member of the IFTU and the Transport and Communication Workers' Union, was killed. According to additional information received, a number of Iraqi trade union leaders have also been the alleged victims of kidnappings, although all have subsequently been released. Those reportedly abducted include, on 26 January 2005, **Talib Khadim Al Tayee**, the President of the Mechanics, Printing and Metal workers Union; on 27 January 2005, **Saady Edan**, President of the Mosul branch of the IFTU; and, on 11 February 2005, **Moaid Hamed**, General Secretary of the Mosul branch of the IFTU, was reportedly abducted.

271. On 11 May 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning Mr. **Rebwar Arif**, aged 40, the secretary of the International Federation of Iraqi Refugees. According to the allegations received, on 5 May 2005, Mr. Arif was arrested by members of the Asayish, or security forces, following a speech he gave the previous day at a students' demonstration in Sulaimaniya, in which he spoke critically of the Patriotic Union of Kurdistan (PUK). He was taken to the Asayish headquarters and is held incommunicado. In view of his alleged detention incommunicado, concern was expressed that he might have been at risk of torture or other forms of ill-treatment.

272. On 30 September 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on the sale of children, child prostitution and child pornography, and the Special Rapporteur on violence against women, its causes and consequences. According to information received, **female political leaders and women campaigning to protect women's rights** have been threatened and killed by members of armed group identifying themselves, on many occasions, as Islamic extremists targeting women for their activities in defence for women's rights. In January and February 2004, Mrs. **Yanar Mohammed**, the Chairperson for the Organisation of Women's Freedom in Iraq, OWFI received death threats by e-mail from an Islamist group known as the army of Sahaba. US officials informed Mrs. Mohammed that they were not in a position to offer her protection. Similarly, Ms. **Amira Salih**, the manager for the US-funded women's centre in Karbala, resigned as a result of repeated death threats against her. On 9 March 2004, US lawyer and civilian employee of the Coalition Provisional Authority (CPA) Ms. **Fern Holland** as well as **Salwa Oumashi**, her Iraqi assistant, were both killed in an armed attack. Mrs. Holland was very active in supporting US-funded women's rights projects in the governorates of Babil, Karbala and Najaf. She was also involved in setting up women's centres in Hilla and Karbala. Furthermore, on 20 November 2004, Ms. **Amal al-Ma'amalachi**, a women's rights activist, co-founder of the Advisory Committee for Women's Affairs in Iraq and the Independent Iraqi Women's Assembly as well as adviser at the Ministry of Municipalities and Public Affairs, was killed together with her secretary, bodyguard and driver in Baghdad. Moreover, Ms. **Aquila al-Hashimi**, who is one of the three female members in the Iraqi Governing Council (IGC) was killed in September 2003. Her attackers were reportedly armed men opposed to the US-led occupation. **Raja Khuzai**, another IGC member received death threats for opposing proposed amendments to the Personal Status Law. Moreover, on 29 March 2004, former Minister of Public Works, Ms. **Nisreen Mustafa al-Burawari**, who was also the only woman in the cabinet, was attacked. She survived the attack, but **two of her body guards** were killed. Finally, **Lami'a Abed Khadawi**, a member of former Prime Minister Iyad Allawi's political party, was killed upon returning home following a meeting of the National Assembly. Moreover, women and girls, including non-Muslims, are increasingly under pressure, often violent, to wear a veil or headscarf and to wear the traditional abaya. This has led to a reduction in the number of girls and women attending schools and universities. The Ministry of Higher Education and Scientific Research has been informed of 3000 cases of women and girls who have requested a postponement of their studies as a result of the security situation linked to this matter. An increase in acid attacks at the hands of Islamist groups and militia against women for not wearing the veil and not wearing the traditional abaya had also been reported. Justification for these attacks is based on the reasoning that when a woman or a girl does not wear a veil or the abaya, she is going against Muslim traditions and should be punished. This, together with the general increase in insecurity in the country, has also drastically led to the restriction of women's freedom of movement and their ability or willingness to participate in public life, particularly in education, employment and political decision-making. The prohibition of deciding about one's choice of clothes also leads to a violation of the right to freedom of expression.

273. On 11 November 2005, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal concerning Mr. **Adel Mohamed Al-Zubaidi**, a lawyer representing the former Iraqi Vice-President in the on-going trial of Saddam Hussein and other members of the previous regime and Mr. **Thamer Hamood**

**Al-Quaee**, also a lawyer representing another defendant, Saadoun al Janabi, in the same trial. According to the information received, on 8 November 2005, as they were travelling to the Bar Association in Baghdad Adel Mohamed Al-Zubaidi and Thamer Hamood Al-Quaee were shot at by gunmen who opened fire from a car with Kalashnikov rifles. It was reported that Al-Zubaidi was shot dead and Al-Quaee wounded and taken to the hospital. Concerns were expressed that the killings of both men was related to their work as defense lawyers in the trial of Saddam Hussein and members of the previous regime. Concerns were heightened by the fact that these events came after Saadoun al Janabi, a lawyer representing another accused, Awad Hamed Bandar, was allegedly abducted from his office and killed on 20 October 2005.

### **Communications received**

274. In a letter dated 4 March 2005, the Permanent Mission of the Republic of Iraq responded to the communication of 4 March 2005. The Mission stated that it had received the following information from the relevant authorities in Iraq. Mr. **Hadi Saleh** was murdered on 4 January 2005 in his house. The Iraqi police forces and the Iraqi judiciary carried out an investigation but did not reach a conclusion. The General Workers Union had undertaken all funeral costs and would provide a retirement salary to his family in accordance with the Iraqi law. Mr. Ali Hassan Abbod was murdered on 28 February 2005. Again the case was investigated but no conclusions were reached. The Mission stated that there would be a retirement salary provided. Kadhim Shaheen, Mytham Shakir, Ahmad Ibrahim and Ziyad Tarik were all murdered by terrorists who took over the train they were traveling on between Mosul and Al Qayara. The Mission stated that the terrorists were arrested and that the families of the four workers killed would receive retirement salaries in accordance with Iraqi law. Ahmad Adrees Abbas was murdered by unknown persons. The Mission stated that the investigation was ongoing and no retirement salary had been granted to his family at the time of writing. Talinb Khadim was kidnapped by terrorists and then released for a ransom of ten thousand dollars. Saadi Edan was kidnapped and released. Mouad Hamid was kidnapped by terrorists in Mosul and then released.

### **Observations**

275. The Special Representative thanks the Permanent Mission of Iraq for its reply to her communication of 4 March 2005, but regrets that at the time this report was being finalized, she had not yet received responses to her communications of 11 May 2005 concerning Mr. Rebwar Arif, 30 September 2005 concerning threats to female political leaders and women human rights defenders and 11 November 2005 concerning Mr. Adel Mohamed Al-Zubaidi and Mr. Thamer Hamood Al-Quaee.

276. While she takes note of the Mission's position in respect of her communication of 4 March 2005 she regrets that the authorities were unable to find and prosecute the perpetrators of these attacks and remains deeply concerned about the hostile and violent environment for human rights defenders in Iraq.

277. The Special Representative thanks the Government of Iraq for its positive response to her request for an invitation to conduct a country visit.

## Israel

### Communications sent

278. On 7 June 2005, the Special Representative, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on the question of torture and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr. **Ziyad Muhammad Shehadeh Hmeidan**, a staff member of Al Haq, an affiliate organization of the International Commission of Jurists which conducts research and advocacy works on human rights. According to the information received, on 23 May 2005, Mr. Hmeidan was arrested at around 16.30, while he was trying to cross through Qalandiya, a checkpoint between Ramallah and Jerusalem. It is reported that Israeli soldiers entered his ID number into their computer, pulled him aside and placed handcuffs on him. It is reported that Mr. Hmeidan was originally due to appear before a military court of the Moscobiyya detention center, in Jerusalem, on 31 May, 2005. However, the hearing was brought forward by the Israeli authorities to 30 May 2005 and the judge ordered that he be held for another 18 days for investigation; he was sent back to the Moscobiyya detention center (also known as the Russian Compound), where he has been detained since 27 May 2005. No charges were filed against him, but Israeli security officials reportedly indicated that there was a file on him. It was also reported that on 30 May 2005 an order was issued prohibiting him from meeting with counsel for 8 days on the basis of Military Order 378 of 1970. On 2 June 2005, a lawyer tried to visit Mr. Hmeidan in Moscobiyya, but she was denied access. Concerns were expressed that during this period Mr. Hmeidan might be at risk of ill-treatment or torture during interrogation.

279. On 1 July 2005, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr. **Ziyad Muhammad Shehadeh Hmeidan**, human rights defender and fieldworker for Al-Haq, a Palestinian NGO. Mr. Hmeidan has already been the subject of an urgent appeal sent by the Special Representative together 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 promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 7 June 2005. According to new information received, on 16 June 2005, Mr. Hmeidan was placed in administrative detention for a period of six months by the Moscobiya Military Court in Jerusalem. Reportedly, no formal charges were brought against him and no evidence supporting his detention has been made available to his lawyer. Concern was expressed that Mr. Hmeidan might be held in administrative detention solely on account of his human rights work with the Palestinian NGO, Al-Haq. Mr. Hmeidan's original detention order of 18 days was issued on 30 May 2005 and was due to expire on 16 June 2005, therefore concern was also expressed that this order may be subject to indefinite renewal.

280. On 26 July 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of allegation concerning Mr. **Khalil Abu Shammala**, Director of the Al Dammeer Association, a

Palestinian human rights NGO. According to the information received, on 23 June 2005, Mr. Khalil Abu Shammala was on his way to Cairo to provide testimony before the United Nations Special Committee to Investigate Israeli Practices when Israeli security forces prevented him from passing through the Rafah international crossing point and held him for seven hours. He was finally informed that he was not allowed to travel without being given any reasons. Concern was expressed that this restriction of Mr. Abu Shammala's movement represents a means to obstruct his human rights activities. According to the information received, it is the third time that Mr. Abu Shammala had been prevented from travelling through Rafah international crossing point, which is the only access point to leave Gaza Strip. Previously on 11 and 13 March 2005, he was prevented from attending a NGO workshop. It was reported that Mr. Abu Shammala, who works on prisoners issues, is permanently banned from leaving the Gaza Strip and has not been able to travel abroad for over a year.

281. On 30 September 2005, the Special Representative sent an urgent appeal regarding Ms. **Khalida Kanaan-Jarrar**, Director of the Palestinian NGO Addameer, Prisoner's Support and Human Rights Association, based in Ramallah in the West Bank. This is a Palestinian non-Governmental, civil institution which focuses on human rights issues, in particular offering support for Palestinian prisoners, advocating the rights of political prisoners and working to end torture through monitoring, legal procedures and solidarity campaigns. According to information received, Ms. Kanaan-Jarrar was not granted a travel permit, as requested, in order to participate in the "Third Dublin Platform for Human Rights Defenders", which would take place in Dublin, Ireland, from 13 to 15 October. The conference is organised by Frontline, the International Foundation for the Protection of Human Rights Defenders. Allegedly, Ms. Kanaan-Jarrar had been prevented from leaving the West Bank to travel abroad on six occasions since 2000, due to not receiving the necessary permits. It was reported that Ms. Kanaan-Jarrar had never been charged with any criminal offence, but was allegedly informed that she is not allowed to travel for "security-reasons". It was reported that the authorities have never disclosed any information either to Ms. Kanaan-Jarrar or to her lawyer concerning which information they are basing this decision on. It was reported that Ms. Kanaan-Jarrar has petitioned the Israeli High Court on four occasions seeking to have her travel ban lifted. Her petitions reportedly failed every time. Concern was expressed that Ms. Kanaan-Jarrar was not granted a travel permit in order to obstruct her human rights work and prevent her from participating in international human rights events.

282. On 10 November 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr. **Nabil Al Mazzawi**, an Al Jazeera cameraman. According to information received, on 4 November 2005, in Bil'in, near the West Bank city of Ramallah, he was beaten by Israeli soldiers and subsequently detained for several hours for having filmed a demonstration at the Israeli-built separation barrier. An Israeli spokesman claims that Mr. Al Mazzawi had attacked a border guard. Al Jazeera footage, however, shows that this is false. This footage also shows that the Israeli soldiers surrounded the dozen peaceful Palestinian and international demonstrators at the foot of the separation barrier at Bil'in, north of Ramallah, to bring an end to their demonstration. It is reported that such peaceful weekly demonstrations have been carried out taken place in the village of Bil'in almost every Friday for the past eighteen months since February 2005 with by Palestinian, Israeli and international individuals peacefully demonstrating side by side against the construction of the separation barrier. Concern was expressed that each

week, Israeli soldiers or border police bring an end to such peaceful demonstrations by arresting and detaining the demonstrators, sometimes using tear gas, stun grenades, and firing rubber coated bullets and new types of ammunition such as pepper balls and blue sponges. Media footage has shown that these demonstrations have always been carried out peacefully, but met with an excessive use of force from the Israeli soldiers or border police.

283. On 29 November 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr. **Ziyad Muhammad Shehadeh Hmeidan**, human rights defender and fieldworker for Al-Haq, a Palestinian NGO. Mr. Hmeidan was the subject of an urgent appeal sent by the Special Representative together with the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 1 July 2005 and an urgent appeal sent by the Special Representative together 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 promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the question of torture on 7 June 2005, to which the Government responded on 11 July 2005. According to the new information received, on 14 November 2005, Mr. Hmeidan was informed by the Israeli authorities that his administrative detention, which was due to be completed on 23 November 2005, was being renewed for another six months. It was reported that no formal charges had been brought against Mr. Hmeidan since his arrest on 23 May 2005, nor has he been informed of the reasons for his detention. Concern was again expressed that Mr. Hmeidan might be held in administrative detention solely on account of his human rights work with the Palestinian NGO, Al-Haq. Mr. Hmeidan's original detention order of 18 days was issued on 30 May 2005 and due to expire on 16 June 2005, therefore concern was also expressed that this order may be subject to indefinite renewal.

#### **Communications received**

284. On 11 July 2005 the Government of Israel replied to the communication of 7 June 2005 concerning Mr. **Ziyad Muhammad Shehadeh Hmeidan**. The Government stated that Mr. Hmeidan was arrested on suspicion of involvement in terrorist activities and that his detention and subsequent appearance before the Israeli judicial system were and would continue to be in conformity with the law. Furthermore, the Government stated, Mr. Hmeidan has had access to a lawyer since 5 June 2005.

285. On 12 January 2006 the Government of Israel responded to the communication of 30 September 2005. The Government stated that according to its information **Khalida Jarrar** was a high-ranking activist in the the terrorist organization "Popular Liberation Front Movement" and that she had filed three petitions to the Israeli Supreme Court regarding the State of Israel's refusal to grant her permission to leave Israel. Two of these permissions were denied and another was removed by the appellant.

286. On 4 January 2006 the Government of Israel responded to the communication of 10 November 2005 concerning Mr. **Nabil Al Mazzawi**. The Government stated that it had sent the request for information to the relevant authorities in Israel.

## Observations

287. The Special Representative thanks the Government of Israel for its replies to her communications of 7 June 2005, 1 July 2005, 30 September 2005 and 10 November 2005, but regrets that at the time this report was being finalized, she had not yet received responses to her communications of 26 July 2005 concerning Mr. Khalil Abu Shammala and 29 November 2005 concerning Mr. Ziyad Muhammad Shehadeh Hmeidan.

288. She takes note of the Government's position in respect of **Ziyad Muhammad Shehadeh Hmeidan in their letter of 11 July 2005**. However, she remains extremely concerned about the use by the Israeli authorities of administrative detention which appears to be being used to prevent human rights defenders from carrying out their legitimate activities in defense of human rights. With regard to the case of Ms. **Khalida Jarrar-Kanaan** she remains concerned regarding the labeling of legitimate human rights defenders as terrorists. The Special Representative refers to her findings in her mission report (E/CN.4/2006/95/Add.3) where she states there have been too many such cases for her to accept the Government's position that these individuals have not been targeted because of their human rights work but because they are threats to state security.

289. The Special Representative thanks the Government of Israel for allowing her to conduct an official mission to Israel and the Occupied Palestinian Territory from 5-11 October 2005 and welcomes continued cooperation with the Government.

## Jamaica

### Communications sent

290. On 9 December 2005 the Special Representative together with the Special Rapporteur on Extra Judicial Executions sent a letter of allegation concerning **Lenford 'Steve' Harvey**, Jamaica Aids Support for Life, an organization dedicated to preserving the dignity and rights of persons living with HIV/AIDS and providing education on related issues. According to the information received, on 30 November 2005, at approximately 1:00 am, at least four assailants forcibly entered the home of Lenford Steve Harvey. They reportedly tied him up, along with two other persons in the residence, and stole a number of possessions. They then abducted Lenford Steve Harvey and took him away in his company car. His body was found in a rural area miles from his home with gunshot wounds in his back and head. Grave concern was expressed that the killing of Lenford Steve Harvey was related to his human rights work for Jamaica Aids Support for Life and his work for marginalized people and people living with HIV/AIDS in Jamaica and the Caribbean.

### Observations

291. The Special Representative notes that at the time this report was being finalized, no response had been received from the Government of Jamaica concerning the death of Lenford 'Steve' Harvey. The Special Representative looks forward to hearing from the Government as she has received information highlighting the particular dangers that defenders face who are associated with lesbian, gay, transgendered and bisexual and HIV/Aids issues in Jamaica.

## Kazakhstan

### Communications sent

292. On 6 July 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture sent an urgent appeal concerning Mr. **Lutfullo Shamsuddinov** and six of his dependent family members. Mr. Lutfullo Shamsuddinov is a member of the Human Rights Society of Uzbekistan, an organization which works on monitoring human rights violations in Uzbekistan. According to the information received, Lutfullo Shamsuddinov and his relatives were arrested on 4 July 2005 in Almaty, Kazakhstan, by members of the Kazakhstani Police, following a request by the Uzbek authorities to extradite him. His family members were later released. The Uzbek authorities are reportedly seeking his extradition on the grounds that he participated in the protests in Andijan on 13 May. He is charged with five offences, including, premeditated aggravated murder, which carries a possible death sentence. Mr. Shamsuddinov fled to Kazakhstan on 25 May 2005, after the 13 May events in Andijan, Uzbekistan, and was registered at UNHCR on 27 May 2005. On 24 June 2005, he and his six dependents were recognized as mandate refugees, after a thorough refugee status determination process. UNHCR submitted their case to a third Government for urgent resettlement and word was received from that Government that it was willing, in principle, to accept the request. Concerns were expressed that Mr. Shamsuddinov was being targeted for his work as a human rights defender in particular his monitoring of and reporting on the protests that took place in his home city of Andijan including the events of 13 May 2005. Particular concern is expressed for the arrest of refugees under UNHCR mandate and on their possible forced return to Uzbekistan. Concern was, moreover, expressed that these persons may be at risk of torture or ill-treatment if they are extradited to Uzbekistan. The Special Rapporteur on the question of Torture drew the attention of the Government to the report of the Special Rapporteur's visit to Uzbekistan (E/CN.4/2003/68/Add.2), which stated that "torture or similar ill-treatment is systematic as defined by the Committee against Torture [and that] torture and other forms of ill-treatment appear to be used indiscriminately against persons charged for activities qualified as serious crimes such as acts against State interests, as well as petty criminals and others."

293. On 7 September 2005, the Special Representative sent an urgent appeal concerning the **Kazakhstan International Bureau for Human Rights and the Rule of Law (KIBHR)**, an independent non-governmental human rights organization. According to the information received, between 13 and 14 August 2005, the offices of the KIBHR in Almaty were allegedly broken into and robbed by unknown individuals. Members of the organization reported noticing that six LCD monitors and thirteen processors had been removed from the offices. It is reported that the perpetrators did not steal any of the other valuable objects present in the office such as a fax machine, telephones or printers. A report was filed and the Almaty Criminal Police and representatives of the Department of Internal Affairs have begun an investigation into the robbery. Concern was expressed that this robbery may have aimed at seizing some of the information and material linked to the human rights work of the organization. According to the information received, previously, on 9 March 2005, following a request from a member of parliament concerning about 30 NGOs, including the KIBHR, an investigation was launched into the finances of the organization by the Almaty City Prosecutor's Office. Yet it was reported that

no conclusion of this investigation had been communicated. Furthermore, another investigation, in March 2005, was initiated by the Almaty Tax Committee following allegations of tax irregularities in grants received by the KIBHR. It has been reported that no irregularities were found in the audits carried out in 2003 or 2004, nor in a tax inspection carried out in 2003. The organization was awaiting the results on taxes and fines to pay. In addition, in 1999, the KIBHR offices were reportedly set on fire. The fire-police allegedly found the incident to be a result of arson yet nobody has been brought to justice in this case.

### **Observations**

294. The Special Representative regrets that at the time this report was being finalized, no response had been received from the Government of Kazakhstan.

## **Kenya**

### **Communications sent**

295. On 6 July 2005, the Special Representative, together with the Special Rapporteur on the question of torture sent an urgent appeal concerning Mr. **Ojiayo Samson** and Mr. **Mithika Mwenda**, human rights activists and members of the Multi-Sectoral Forum (MSF)—Yellow Movement, Maua—a network of human rights civil society organisations in favour of a people-driven constitutional review process. According to the allegations received on 18 June 2005, Mr. Samson and Mr. Mwenda were arrested and beaten up by Police Officials of Maua while attending a procession on the occasion of the launch of the MSF Maua Chapter. The procession was aimed at extending MSF to the regional parts of the country to allow Kenyans to decide their next steps and future in the constitution process. Mr. Samson was held at the Njiru Police Station in solitary confinement while Mr. Mwenda was admitted in Maua Hospital, chained to his bed and on police guard. On 21 June 2005, both men were released on bail however they are facing charges for “offensive conduct conducive to a breach of the peace in a public place” (Section 94(1) of the Penal Code), “behaving in a disorderly conduct in a police building” (Section 60 of the Penal Code, which relates to the offence of administering unlawful oaths), and “refusing to permit finger prints to be taken” (Section 21(3) of the Police Act, Cap 84 Laws of Kenya). Their trial will begin on 26th September 2005. Concern was expressed that the charges brought against Messrs. Samson and Mwenda may be aimed at hindering their human rights activities.

296. On 27 July 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning the **arbitrary arrest of a number of human rights defenders and the violent repression of demonstrations** in Kenya. According to the information received on 16 July 2005, a group of government-friendly Members of Parliament (MPs) met in Kilifi and decided to make far-reaching changes to the Draft Constitution of Kenya (commonly known as the Bomas Draft Constitution), adopted in March 2004 by the National Constitutional Conference. They reportedly planned to present their new draft to the Parliament on 19 July 2005. On 18 July 2005, it is reported that human rights NGOs, opposition political parties and other civil society members called a press conference to oppose this move and to announce the beginning of collective action to resist the Parliament’s attempt to alter the draft constitution. Civil society organizations also drafted a petition, which was presented to the Speaker of the National

Assembly as per the Standing Orders. On 19 July 2005, a demonstration was held to defend the supremacy of the Constitution and the rule of law. The police, security forces from the General Service Unit and other armed forces reportedly prevented the march to reach the Parliament and dispersed the crowd by firing teargas and water cannons. During this event, Ojiayo Samson, Ole Kina, Fred Odhiambo, John Odada and Sheikh Ahamad, five members of the Yellow Movement of the Multi-Sectoral Forum (MSF), an organization pressing for a people-driven Constitutional review process were reportedly arrested and taken into custody to the Central Police Station, before being released on bail for 15,000 Kenyan Schillings (163 Euros) each. They are reportedly being charged with “taking part in an illegal demonstration”. The Special Representative and the Special Rapporteur on the question of torture had already sent an urgent appeal on behalf of members of the Yellow Movement, including Mr. Ojiayo Samson, on 6 July 2005. On 20 July 2005, protesters marched on the Parliament again as it was beginning to debate the Kilifi draft. They were once again prevented from approaching the Parliament building. It was reported that eight people were arrested and at least two others were seriously injured, including a renowned human rights activist, Mr. Otieno Ombok, Coordinator for the Constitution and Land at Chemchemi Ya Ukweli (Wellspring of Truth), an ecumenical and human rights NGO. It was also reported that on this occasion the police shot one of the demonstrators dead. On 21 July 2005, Mr. Cyprian Nyamwamu, Executive Director of the National Convention Executive Council (NCEC), a pro-reform coalition of political parties and NGOs, Mr. Kepta Ombati, national Coordinator of the NGO Youth Agenda and a member of NCEC, Mr. Paul Angwenyi, Mr. Evans Owiti, Mr. Kelly Musyoka, Mr. Koitamet Ole Kina, member of Bomas Katiba Watch (BKW), Mr. Elkanah Odemba, Convenor of BKW, and Mr. Sheikh Ahamad were reportedly arrested in Nairobi as they were to address a public rally in town, and detained at the Industrial Area Police Station in Nairobi. They were released on bail on 22 July 2005 and charged with “causing disturbance and holding illegal demonstrations.”

### **Observations**

297. The Special Representative regrets that at the time this report was being finalized, no response had been received from the Government of Kenya to her communications of 6 July concerning Mr. Ojiayo Samson and Mr. Mithika Mwenda or 27 July 2005 concerning the arbitrary arrest of a number of human rights defenders.

298. The Special Representative regrets that no response has been received from the Government of Kenya to her request for an invitation to conduct a country visit.

### **Kuwait**

#### **Communications sent**

299. On 22 February 2005, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal regarding Mr. **Osama Ahmed Al-Munawer**, lawyer and member of the Al-Karama Association for Defending Human Rights (KADHR); an organization which works to defend civil and political rights in Kuwait. According to information received, on 31 January 2005, Mr. Al-Munawer was allegedly arrested at Kuwait city airport as he returned from Cairo, where he had reportedly been meeting with several Egyptian human rights defenders. On 2 February 2005, Mr. Al-Munawer was allegedly charged and provisionally detained for having reportedly had telephone contacts with his client

Khaled Douisri, another Kuwaiti human rights defender who was recently forced to flee the country after an attempt on his life. Concerns were expressed that his arrest may be an attempt to curb his activities in defense of human rights. These concerns were heightened by the fact that Mr. Al-Munawer has, in the past, reportedly been the target of restrictive actions in connection to his role in exposing cases of human rights violations. In particular, it was reported that he was summoned before the General Prosecutor on charges of violating his professional code of honour for sending details of a case to a local newspaper and suspended for one year on 29 December 2003. It is further reported that on 12 September 2004, he was arrested and charged with endangering the national interests of Kuwait for transmitting false information a day after placing a call to the President of KADHR. He was freed after paying the bail of 500 Kuwaiti dinar. His hearing is pending before the Criminal Court.

### **Communications received**

300. In a letter dated 18 May 2005, the Government of Kuwait responded to the communication of 22 February 2005 concerning Mr. Osama Ahmed Al-Munawer. The Government stated that Mr. Al-Munawer's case was still under investigation and that he was charged with membership of a proscribed organization which seeks to destroy the basic apparatus of the State by unlawful means.

### **Observations**

301. The Special Representative thanks the Government of Kuwait for its reply to her communication of 22 February 2005 and looks forward to receiving information regarding the outcome of the proceedings against Osama Ahmed Al-Munawer.

## **Kyrgyzstan**

### **Communications sent**

302. On 10 February 2005, the Special Representative sent an urgent appeal concerning Mr. **Ramazan Dyrlydaev**, chairman of the **Kyrgyz Committee for Human Rights (KCHR)**. According to the information received, on 2 February 2005, about 10 policemen reportedly went to the building where Mr. Dyrlydaev used to live until 2003. Two of them entered into his former apartment while the others stayed outside watching the entrance, and requested that those who currently live there provide documents proving they had purchased their residence. The policemen then reportedly asked for Mr. Dyrlydaev's whereabouts claiming that they had received an order to arrest him due to his alleged plundering of financial resources amounting to over 400,000 US dollars. However, the individuals currently living in the apartment claimed that they had bought it two years ago through an attorney mandated by Mr. Dyrlydaev and that they did not know where he currently lives. This incident comes after the publication of an article on 1 February 2005, in the "Slovo Kyrgyzstana" newspaper reportedly claiming that Mr. Dyrlydaev's denunciations of human rights violations by the Kyrgyz state agents and Government are an invention to obtain funding from Western institutions, and that such false information is disseminated through international organisations, citing namely the Vienna-based International Helsinki Federation for Human Rights. Concern was expressed that the policemen may have been attempting to arrest Mr. Dyrlydaev. According to the information received, the Ministry of Internal Affairs and the National Security Service reportedly informed the Kyrgyz

President that Mr. Dyrlydaev was back in Kyrgyzstan during the current parliamentary election campaign and his arrest was ordered. It is believed that this incident may be in reaction to the repeated denunciations by the KCHR of the irregular nomination and registration procedures of candidates to the Kyrgyz parliament who are to be elected on 27 February 2005, and the recent measures taken by the authorities in Bishkek to obstruct protests and other assemblies on the eve of elections. In particular, KCHR has denounced the fact that former ambassadors such as Ms. Roza Otunbaeva, co-chair of the political block "Atajurt", have been denied registration to run in the parliamentary elections, and those who have organised protests against such measures have been fined and repressed.

### **Communications received**

303. In a letter dated 4 March 2005, the Government of the Krgyz Republic responded to the communication of 10 February 2005. The Government stated that the law-enforcement agencies in the city of Bishkek received no communications or statements about the alleged unlawful conduct of a search in residential accommodation belonging to **Ramazan Dyrlydaev**. The Government stated that a criminal case was initiated in respect of Ramazan Dyrlydaev in 2000 by the Bishkek Pervomaisky district procurator's office on the basis of indications of an offence under Article 338 of the Criminal Code of the Kyrgyz Republic (non-execution of a court decision) relating to the recovery from him of a debt for delaying the issue of a work book to A.E. In the course of the investigation the criminal case, proceedings were terminated by the procurator's office. Subsequently this decision was found to be unlawful by the Bishkek Pervomaisky district court. Proceedings in the case had been suspended at the time of the reply because of the failure to establish Ramazan Dyrlydaev's whereabouts. The Government attached a communication of members of the Kyrgyz Committee for Human Rights concerning Ramazan Dyrlydaev.

### **Observations**

304. The Special Representative thanks the Government for its reply to her communication of 10 February 2005.

305. The Special Representative regrets that no response has been received from the Government of Kyrgyzstan to her request for an invitation to conduct a country visit.

## **Lebanon**

### **Communications sent**

306. On 4 March 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation concerning the situation of Dr. **Muhamad Muqraby**, human rights lawyer and Chairman and co-founder of Multi-Initiative on Rights: Search, Assist and Defend (MIRSAD). According to information received, on 24 February 2005, the chief Public Prosecutor opened a file on Dr. Muqraby. On 26 February 2005, he was arrested and detained in Beirut by forces of the Sûreté Générale. He was accused of "assaulting the standing of the state"; although there is no provision for this charge in the Lebanese Penal Code. He was later transferred to a special unit, where he was interrogated by detectives answering to the General Public Prosecutor, also

the current Minister for Justice. During the interrogation, numerous references were made to a testimony he had given before the Mashrek Committee of the European Parliament in Brussels on 4 November 2003, in which he recorded the details of his arbitrary detention in August 2003 and exposed the allegedly corrupt nature of the current judicial system in Lebanon. He also urged the international community to support activists working to establish a modern and independent judicial system. However, Dr. Mugraby refused to answer any questions, and was released the same day, after spending some ten hours in detention. In 2004, attempts to prosecute him in connection with the same incident had failed in the face of intense opposition from the European Commission. According to additional information received, on the morning of 28 February 2005, Dr Mugraby was scheduled to fly out of Beirut International Airport. However, he was again detained by officials, and although released shortly afterwards, missed his flight. Concern is being expressed that Dr. Mugraby is being targeted in connection with his activities in defense of human rights, in particular, his work in exposing cases of institutional repression and human rights violation.

307. Le 7 décembre 2005, le Rapporteur special, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a envoyé un nouvel appel urgent concernant la situation de M<sup>e</sup> **Muhamad Mugraby**, avocat défenseur des droits de l'homme, âgé de 65 ans. Selon les informations reçues, M<sup>e</sup> Muhamad Mugraby a été appelé à comparaître devant une cour de justice militaire le 9 janvier 2006, pour avoir diffamé les militaires libanais. Les charges se rapportent au témoignage qu'il a donné devant une délégation interparlementaire, à l'invitation du Parlement européen, en novembre de 2003. Son témoignage portait sur les droits de l'homme et le système judiciaire au Liban et dans les pays avoisinants. Un certain nombre d'autres procédures criminelles et disciplinaires sont en cours contre M<sup>e</sup> Mugraby. En novembre 2001, il a été accusé d'avoir diffamé l'Association du Barreau de Beyrouth (BAB) dans un communiqué de presse qu'il a publié avec un certain nombre d'autres avocats. Le cas est toujours à l'examen. Le 26 février 2002, M<sup>e</sup> Mugraby a intenté une action civile contre la BAB demandant que celle-ci ne prenne aucune décision concernant l'exercice de sa profession d'avocat jusqu'à ce qu'un jugement final ait été émis concernant les accusations de diffamation portées contre lui. Le 17 janvier 2003, le Conseil Disciplinaire de la BAB a pris la décision de rayer M<sup>e</sup> Mugraby du registre des avocats pour la période maximale de trois ans sur la base du fait qu'il n'avait pas demandé l'autorisation de la BAB pour intenter son action civile contre la BAB. Me Mugraby a fait appel de cette décision.

#### **Responses received to communications sent in previous years**

308. In a letter dated 19 July 2005, the Government of Lebanon responded to the communication of 23 September 2004 concerning **Samira Trad**. The Government stated that Samira Trad's trial had been postponed until 14 November 2005 pursuant to a notice issued by the prosecutor's office at the Mount Lebanon Court of appeal.

#### **Observations**

309. The Special Representative thanks the Government of Lebanon for its reply to her communication of 23 September 2004 concerning Ms. Samira Trad. She looks forward to

receiving information regarding the outcome of the trial of Ms. **Trad** but remains concerned about the persistent harassment of Ms. **Trad** and her organisation.

310. She also reiterates her concerns with regards to the repeated apparent harassment of Dr. Mugarby and looks forward to receiving a response from the Government on this case.

### **Libyan Arab Jamahiriya**

#### **Communications sent**

311. On 9 December 2004, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning a number of withheld visas of members of **Human Rights Watch**, who were scheduled to begin a three-week fact-finding trip to Libya 7 December 2004. Human Rights Watch planned to investigate the human rights condition of women and the Government's treatment of migrants and refugees. The organisation also planned to investigate cases of political prisoners, in particular the cases of Fathi al-Jahmi and 86 students and professionals allegedly imprisoned for supporting or sympathizing with the banned Libyan Islamic Group, also known as Muslim Brotherhood. Reportedly, on 1 December 2004, an appeals chamber of the People's Court upheld the sentences for the group, including for two university professors, Salem Abu Hanak and Abdullah Ahmed Izzedin, allegedly sentenced to death. Concern is expressed that the alleged withholding of the visas of members of Human Rights Watch may represent an attempt to limit independent scrutiny of the human rights situation and suppress the right to freedom of opinion and expression in Libya.

#### **Observations**

312. The Special Representative regrets that at the time this report was being finalized, no response had been received from the Government of Libya.

### **Malaysia**

#### **Communications sent**

313. On 30 June 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning **a gathering of citizens of Myanmar**. According to information received, on 16 June 2005 outside the embassy of Myanmar in Jalan Ampang, Kuala Lumpur, a large crowd of dissidents carried out a peaceful demonstration in protest of the continued detention of opposition leader Aung San Suu Kyi. The protestors also called for the democratization of Myanmar. It is reported that approximately 64 of the protestors were arrested and were detained at the Jalan Pudu detention centre. It was feared that, in addition to being charged with illegal assembly, they might also be charged with illegal entry in Malaysia under the Immigration Act, and therefore risk being sent back to Myanmar. UNHCR confirmed that 38 of the persons arrested are registered with it, including three women. According to police sources, 64 persons were arrested, 60 of whom had refugee status.

### Responses received to communications sent in previous years

314. On 22 December 2004 the Government of Malaysia responded to the communication sent by the Special Representative, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers on 26 October 2004, concerning **P. Uthayakumar**. The Government reiterated its response of 7 October 2004 where P. Uthayakumar's run-in with police had been explained. The Government stated that it failed to see how the execution of a warrant issued by the country's independent judiciary for P. Uthayakumar's failure to respond to a subpoena could possibly be construed as a violation of his human rights. With regard to the restriction on P. Uthayakumar's travel plans, the Government stated that the restriction would remain as long as the amount owed by P. Uthayakumar to the Inland Revenue Board was paid in full, in concordance with subsection 104(1) of the Malaysian Immigration Department's Suspected List.

### Observations

315. The Special Representative thanks the Government for its reply to her communication of 26 October 2004 but regrets that at the time this report was being finalized, she had not yet received a response to her communication of 30 June 2005.

## Maldives

### Communications sent

316. On 8 July 2005, the Special Representative, together with the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning **a statement by the Supreme Council for Islamic Affairs** banning people from possessing the Universal Declaration of Human Rights. According to the information received, on 4 July 2005, the Supreme Council for Islamic Affairs issued a press release stating that the Universal Declaration, and in particular its article 18, contradicts the Constitution of the Maldives and the Islamic faith. Moreover, the aforementioned Supreme Council prohibited people from acquiring copies being given out by the National Human Rights Institution. In addition, the Council made the following statement: "As no Maldivian wishes to practice another religion but Islam we have banned people from possessing the Declaration that is being distributed by the Commission". Following the press release, the National Human Rights Commission (NHCR) has stopped the distribution of the Universal Declaration. Concern was expressed that this statement aimed at preventing the NHRC from carrying out its human rights activities in particular to raise awareness about religious freedom by distributing the UDHR.

317. On 18 August 2005, the Special Representative, together with together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning several members of the newly established opposition party the **Maldivian Democratic Party (MDP)** and other pro-democracy activists as well as a number of journalists, including MDP chairperson Mr. **Mohamed Nasheed**, MDP Caretaker Committee member Mr. **Mohamed Ziyad**, former Minister and former SAARC Secretary General for the

MDP **Ibrahim Hussein Zaki**, and MDP activist and journalist for opposition newspaper Shuaib Ali. On 12 August 2005, in Malé's main public square, Independence Square, approximately 200 MDP members and pro-democracy activists, including Mr. Mohamed Nasheed, Mr. **Ahmed Abbas**, Ms. **Latheefa Umar**, Ms. **Jennifer Latheef**, Mr. **Ahmed Mohamed Fomy**, and Mr. **Ali Riyaz** were arrested during a peaceful demonstration held in commemoration of the anniversary of the mass arrests of opposition leaders and pro-democracy activists of 12 and 13 August 2004 in Malé. It is believed that they were taken to the Dhoonidhoo interrogation centre, located on a small island near Malé. It was reported that several persons, including Ms. Latheefa Umar, Aminath Shareef and Ali Riyaz, were severely beaten by the police at the time of arrest and had to be taken to hospital for treatment of the injuries they sustained. The families of the persons concerned were not given any information concerning the reasons of the arrests and no right to visit the detainees was provided. Ms. Latheefa Umar was released on bail on 14 August 2005 after having been severely maltreated in detention and forced to sign a paper stating that she would not leave the island. Ms. Jennifer Latheef was also released on 14 August 2005. Moreover, several other arrests of MDP party members and supporters as well as pro-democracy activists continued to take place in the following days. Many people were arrested at their homes. The following cases were reported to the Special Representative: On 13 August, 2005 at approximately 0800 a.m., MDP Council Member Mohamed Ziyad, was arrested at his home and taken away from Malé by the police. The police also raided his house. His family has not been informed of his whereabouts. He remains in detention. At approximately 0630 a.m. on 13 August 2005, a group of police officers in riot gear entered the house of Shuaib Ali, handcuffed him and took him away in a police vehicle. Upon complaining to the police and asking for information about the reasons for her husband's arrest and his whereabouts, the police requested that she make her complaints in writing. Mr. Ali remains in detention. MDP party activist, **Ali Shiyam** was also arrested at his home by police officers at approximately 0730 a.m. on 13 August 2005. His family was not informed of the reasons for his arrest or of his whereabouts. The police did not answer any of the questions raised by his brother on Mr. Shiyam's whereabouts and of his right to be visited. He remains in detention. On 12 August 2005, high profile MDP member Ms. was arrested from her home by ten police officers; she was handcuffed. No reasons were provided for her arrest. Her sister received a phone call from the police informing her that Ms. Shareef was in police custody. Eyewitnesses claim that she had been beaten by the police with batons upon arrest. She remains in detention. On 13 August 2005 at approximately 21:15 p.m., Ibrahim Rasheed was arrested close to his house by police officers who beat him and then took him away in a police vehicle. His family has not been informed of the reasons for his arrest or of his current whereabouts. MDP party activist, Mohamed Asim was arrested at his house on 13 August 2005 by police officers. No reasons were given for his arrest. He remains in detention. Mohamed Azmeel was arrested on 3 August 2005 and is currently being detained at Dhoonidhoo interrogation centre. On 1 August 2005, Mohamed Shaheel was arrested. His current whereabouts are unknown, and requests to the authorities to allow him visits have not been answered. On 13 August 2005, MDP party activist Mr. Mohammed Areef was also arrested. He remains in detention. Ismail Shahail, former bodyguard to the President, was arrested at his home on 13 August 2005. He has been released. Abdullah Shabeer was arrested on 13 August 2005 and is currently being detained at Dhoonidhoo interrogation centre. Mr. Abdullah Majeed was arrested on 12 August 2005 from Haruge, which is the principal opposition party meeting place. He remains in detention. Mohammed Hamdhan Zaki, the son of an MDP council member was arrested on 15 August 2005. He remains under house arrest. MDP Party activist Ahmen Abbas, MDP Party activist Dhadharaa Naseem, MDP Party activist Ahmed Mohammed, high profile

MDP party member Hassan Zahir, Mohammed Yoosuf, Mohammed Saizan, Abdul Lateef, Ahmed Zaki, Imad Solih, Rilwan Shareef, Mohammed Waseem, Hussain Rasheed, business partner of MDP Deputy Chairperson Abdul Majid, Rilwan Abdul Muhusin, and Mohamed Faizan, were all arrested between 12 and 15 August 2005, and remain in detention. It is reported that over 140 persons remain in detention. Concern was expressed that the persons concerned have been arrested and detained for the expression of their political views and for associating themselves with political opposition parties and activities. In view of their incommunicado detention, fear was expressed that they may be at risk of torture or other forms of ill-treatment.

318. On 4 October 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal regarding **Minivian**, the only independent newspaper and the biggest selling newspaper in the Maldives. According to information received, since it was granted a licence to publish in July 2005, Minivian has been subjected to repeated acts of hostility against the newspaper itself and members of its staff by the authorities. In particular, on 28 April 2005, **Paul Roberts**, who works for Minivian online, was not allowed to enter the Maldives on the grounds of having links to Islamic terrorists. It is however reported that no charges were brought against him on this account and that he was never arrested in relation to these accusations. In March 2005, Mr. Roberts had conducted a number of interviews in the Maldives on the current political situation, including a phone interview with the then Chief Government Spokesperson and now Foreign Minister Dr. Ahmed Shaheed. It is reported that other British nationals including a human rights activist, **David Hardingham**, founder of Friends of Maldives and trustee of the British charity Maldives Aid and **Jude Laing**, a lawyer working for the opposition Maldivian Democratic Party (MDP) were also prevented from entering the territory. These events occurred two days before the return from exile of the MDP leader Mohammed Nasheed. Moreover, in August, a number of journalists working for Minivian, including Minivian's editor and human rights activist, **Aminath Najeeb** and reporters **Hussein Nazeer** and **Nazim Sattar**, were called to the police station in relation to a police investigation regarding an article published in the newspaper on 2 August 2005. It is reported that the article had quoted an MDP member saying that 'what we should do to those in the Star Force (police) who beat us, is to seek them out individually and for us to act in such a manner that makes them feel that beatings result in pain, otherwise they will not be subdued'. The police informed the three journalists that criminal action could be taken against them for publishing the article since it "incited violence". On 13 August 2005, **Shuaib Ali** a journalist who also works for Minivian, was arrested and held in solitary confinement until 12 September 2005. He was charged with fabricating weapons made of iron and wood. He was released because there was not enough evidence against him. On 15 August 2005, Minivian's printers received repeated anonymous phone calls threatening them with arson if they continued to print Minivian. The printers have since then refused to print Minivian. It was then decided to print the newspaper on photocopy machines at the Minivian offices themselves. There have been no investigations into the threats. On 4 September 2005, **Imran Zahir**, a Minivian photographer, was arrested while taking photos of the police who forcefully entered the hall where an opposition MDP rally was taking place and removed their loud speaker system. He is being detained for allegedly obstructing the police from their duty and engaging in violent activities. Mr. Zahir remains in detention and it is reported that he has been subjected to beatings by the police. On 20 September 2005, other newspapers in the Maldives announced that the editor of Minivian, Aminath Najeeb, its sub-editor, Ahmed Nazim Sattar, Hussein Nazeer, Abdulla Saeed, Hidayatulla, Mohammed Nasheed and Ali Zahir were all

under investigations by the Attorney General for potential criminal prosecutions against them in relation to six articles published by Minivian. Concern was expressed that the numerous actions taken against Minivian and its staff are an attempt to silence its critical reporting of the Government.

319. On 5 October 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal regarding **Jennifer Latheef**, human rights activist and journalist working for opposition daily Minivian. She is also the daughter of Mohammed Latheef, the Maldivian Democratic Party (MDP) founder. Ms. Latheef was the subject of two urgent appeals sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders on 6 October 2004 and by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 18 August 2005. According to information received, she has been criminally charged of committing an act of terrorism for allegedly throwing stones at a policeman during a riot which broke out in Malé in September 2003. Ms. Latheef was covering the riot and also went to the hospital to interview those who were injured during the riot. Ms. Latheef was also making documentaries about social issues in the Maldives at the time. She denies having resorted to violence during the riots. Her verdict, which was to be handed down on 25 September 2005, was postponed. Concern was expressed that the trial against Ms. Latheef is unfounded and is an attempt to silence her critical reporting of the Government.

### **Communications received**

320. On 11 July 2005 the Government replied to the communication of 8 July 2005 concerning **a statement by the Supreme Council for Islamic Affairs**. The Government provided the Special Representative with the Media Release issued by the Government of Maldives on 11 July 2005 pending the official reply of the Government. The Media Release provided that the Government stated its support for the Universal Declaration on Human Rights and that the Supreme Council on Islamic Affairs was not mandated with interpreting the Constitution. The Press release stated moreover that the Supreme Council had not invoked Clause 4.a of Law number 4/75 which provided the legal authority to ban specified items so thjat there ewas no legal effect to the announcement on the Universal Declaration made by the Supreme Council. The Government asserted that the Universal Declaration on Human Rights asserts customary international law and also incorporates values and virtues that Islam had asserted as fundamental to human dignity centures before the UN passed the Universal Declaration on Human Rights in 1948. Finally that although there are certain provisions that may be inconsistent with Muslim personal law, the objective of the Universal Declaration on Human Rights, which is to protect and promote human rights is fully endorsed by the Government. Moreover on 31 August 2005, the Government provided more information to the letter sent by the Special Representative. The Deputy Minister of Foreign Affairs confirmed that the pronouncement of the Supreme Council had no legal effect. Moreover, the Government informed

the Supreme Council to desist from making such pronouncements without prior consultation with the concerned authorities.

321. On 23 August 2005 the Government replied to the communication of 18 August 2005. The Government stated that the persons concerned were arrested on suspicion of instigating public disorder and violence. Moreover, Mr. **Mohammed Nasheed** was charged by the Attorney General on 22 August 2005. The Government assured the Special Representative that all detainees are well treated and that the ICRC and the Human Rights Commission of Maldives has been provided with access to the detainees. The Government stated that the disturbances of 12-14 August were not spontaneous but resulted from a sustained period of agitation and incitement by opposition elements, chiefly members of the Maldivian Democratic Party. The Government stated that the police used minimal force to disperse the crowds that kept meeting and creating agitation for ten nights in a row. Then, following a public notice issued by the Home Ministry explaining that public gatherings that had not been approved as required by law would be liable to dispersal if they caused public disorder, senior members of MDP appeared at Jumhooree Maidhaan and urged their supporters to go there. The crowd refused to disperse after being requested to do so by the police and at around 16:00 a group of some 300 people joined the gathering and began physically attacking the police, as a result of which 38 persons were arrested including Mr. **Nasheed** and Mr. **Abbas**, the latter having the previous week been charged with inciting violence. The three minors and three women who were among the detainees, as well as two other adults were released the following morning. The Government stated that the mobs which were eventually dispersed by the police continued to roam the streets of Male creating disturbances and unrest and chanting 'kill, kill' and that they also gathered outside Government offices and attempted to physically attack the buildings. One of the groups broke down the gate of the state television station and stormed into the premises throwing large stones at the building. Furthermore, the police conducted a search of the MDP camp premises and uncovered a large cache of sharp weapons including metal batons and wooden clubs. Upon carrying out another search on the premises, the police found that more steel rods were being made, as a result of which on 13 August, the tent at Dhufini Hiyaa was dismantled and the premises closed down. Nevertheless, the headquarters of MDP remains open. On the evening of 13 August 2005, a mob gathered outside the tent at Dhufini Hiyaa and demanded that they be allowed to enter the premises, after which they physically assaulted the security personnel, as well as causing major disruptions and some damages to homes and shops in the area. The security personnel did not manage to clam the crowd despite urging them to disperse peacefully. Finally they used tear gas and water cannons to disperse the crowds after repeated warnings. Order was fully restored at around midnight across the capital, and no injuries amongst the public were reported. 21 persons were arrested on 13 August. The NSS arrested some more people as they carried out further investigations, and released them as soon as the interrogations were completed. The total number of persons in police custody at the time this reply was sent was 102. The police voiced their concern at reports they received that further violence was being planned for 14 August. That evening violence broke out again on the streets of Male, and the crowd threw petrol bombs and flaming petrol soaked tennis balls at the security personnel who were trying to maintain public order as well as at bystanders. Extensive damage was caused to public and private property. Minors were also part of the violent crowds. The total number of arrests made throughout the disturbances was 185. 83 were since released and 102 remain in detention. Seven protestors were injured and were treated in hospital. A number of security personnel were also injured. The Government stated that there were no street disturbances on the evening of the 15 August. The

authorities requested the people, however, to remain indoors after midnight. The Government believes that the persons instigating the violence belong to the opposition. The investigations into these incidents were ongoing at the time this reply was sent.

322. On 2 November 2005 the Government replied to the communication of 5 October 2005 concerning Jennifer Latheef. The Government stated that Ms. **Latheef** was one of six persons charged under the Prevention of Terrorism Act, for her role in the mob violence in Male on 20 September 2003. Ms. Latheef's confessional statements provide that she did not take part of a peaceful demonstration and she did not take part as a journalist, but that she was involved in the incitement of a serious of violent incidents in the streets of Male and also confessed to having confronted an NSS security officer. The Government stated that three eyewitnesses identified Ms. Latheef as one of those who aided and abetted the mob and that because of her encouragement, the mob had engaged in further violence and confrontation, including the hurling of stones at security officials attempting to restore order, touching important public buildings and terrorizing the public. The Government denied that Ms. Latheef's arrest was politically motivated and her trial was conducted in strict accordance with the laws, regulations and penal code of the Maldives. Finally the Government stated that the sentence of 10 years of imprisonment was proportionate to the charges, which were of a very serious nature. Moreover, she had access to a lawyer both during detention and at trial and the defence was given ample time to prepare their case. The Government stated that all accusations that Ms. Latheef was abused while in detention would be reviewed by the Human Rights Commission of the Maldives which will take swift action and any necessary action to bring to justice anyone identified to have committed such acts of abuse. At the time this reply was sent, Ms. Latheef had the right to appeal the decision against her.

### **Observations**

323. The Special Representative thanks the Government of the Maldives for its replies to her communications of 8 July 2005, 18 August 2005 and 4 October 2005.

324. She welcomes the Government's swift action with regard to the statement by the Supreme Council of Islamic affairs, and the Government's stated endorsement of the Universal Declaration of Human Rights.

325. While the Special Representative acknowledges the Government's position in respect of her communications of 18 August 2005 and 4 October 2005, she remains concerned about allegations of arbitrary detention and arrest against the human rights defenders in question. She looks forward to receiving further information regarding the outcome of the investigations by the Human Rights Commission of the Maldives.

## **Mexico**

### **Comunicaciones enviadas**

326. El 26 febrero 2005, la Representante Especial, 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 Relator Especial sobre la situación de los derechos humanos y las

libertades fundamentales de los indígenas, envió un llamamiento urgente en relación con la situación de inseguridad y peligro en la que se encontraría la Sra. **Obtilia Eugenio Manuel**, fundadora de la Organización del Pueblo Indígena Tlapaneco (OPIT) y defensora de los derechos humanos del pueblo indígena tlapaneco, en el municipio de Ayutla de los Libres, Guerrero. Se informa que el 9 de diciembre del 2004, Obtilia Eugenio Manuel habría recibido en su domicilio un escrito anónimo en el que se le habría amenazado de muerte. La afectada y los miembros de la OPIT habrían decidido denunciar el hecho públicamente. El día 26 de diciembre del 2004, la hermana de la afectada habría observado en la calle dos sujetos desconocidos, los cuales habrían tomado apuntes en una libreta y hablado señalando hacia el domicilio de Obtilia Eugenio Manuel. Al observarla y reconocerla se habrían retirado del lugar caminando en sentido opuesto. Con posterioridad, los días 29 y 30 de diciembre, los familiares de Obtilia Eugenio Manuel habrían observado a varios sujetos que les observaban y que se habrían retirado apresuradamente al ser reconocidos. Se denuncia que esta situación de vigilancia y hostigamiento a la familia de Obtilia Eugenio y a los miembros de la OPIT habría permanecido durante todo el mes de enero. Frente a los hechos denunciados, el 14 de enero de 2005, la Comisión Interamericana de Derechos Humanos (CIDH) habría concedido medidas cautelares por Obtilia Eugenio Manuel y sus familiares, conformemente, el Estado Mexicano habría sido notificado. La fuente informa que las amenazas y acoso continúan, temiéndose por la integridad física de Obtilia Eugenio y de los demás miembros de la OPIT. Se cree que estos actos estuviesen relacionados al trabajo que realiza Obtilia Eugenio Manuel en defensa de Me Phaa Valentina Rosendo Cantú e Inés Fernández Ortega, dos indígenas que habrían denunciado haber sufrido actos de la violación y tortura supuestamente en manos de elementos militares. También, el abogado de la Sra. Obtilia Eugenio Manuel habría sido informado por las autoridades judiciales civiles que muy probablemente la denuncia de la Sra. Obtilia Eugenio Manuel sería transferida a la jurisdicción militar. Esto hace temer que la Sra. Obtilia Eugenio Manuel podría ser privada de un proceso jurídico que ofrezca todas las garantías posibles para asegurar un juicio justo respecto a los actos de hostigamiento mencionados.

327. El 23 de febrero de 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía y el Relator Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, envió un llamamiento urgente en relación con la situación de inseguridad y peligro en la que se encontraba **Lydia Cacho Ribero**, Presidenta del Centro de Crisis para Víctimas, Centro Integral de Atención a las Mujeres (CIAM) en Cancún, Estado de Quintana Roo. De acuerdo con las informaciones recibidas, recientemente, un ex agente del Cuerpo Especial Anti-secuestros de Torreón, de la Agencia Federal de Investigación (AFI), se habría presentado en varios refugios pertenecientes a la red del CIAM, en las ciudades de Saltillo, Monterrey y San Luis Potosí, portando un arma de fuego y procediendo a amenazar de muerte al personal que trabaja en dichos Centros. Se alega que el ex-agente habría realizado dichas amenazas como represalia por la protección que el CIAM habría dado a su esposa, sus dos hijos y una hija luego de que éstos fugaran de su hogar al sufrir presuntos actos de agresión por parte de dicho ex-agente. Según las informaciones recibidas, luego de sufrir los actos de agresión, la esposa del ex-agente fue transferida al refugio de Cancún. La Sra. Lydia Cacho Ribero, Presidenta del CIAM, ha sido amenazada de muerte si no entrega a la esposa del ex-agente. Además, se informa que cuando la Sra. Cacho notificó al delegado de la Procuraduría General de la República estos actos, habría recibido la recomendación de que “no se metiera con él”, ya que estaba “muy protegido por sus

jefes”. Se alego también que el 16 de noviembre de 2004, otro hombre, cuya esposa e hijo de tres años de edad habrían recibido también protección por parte del CIAM, se habría presentado en las oficinas del CIAM en Cancún portando armas de fuego y amenazando de muerte al equipo, en particular a la Sra. Lydia Cacho, si no le devolvían a su mujer y a su hijo. Se alego que dicho señor habría comenzado a amenazar al equipo del CIAM tras la primera entrevista anónima que ella dio, en el marco de las investigaciones sobre acciones delictivas imputadas a su marido por parte del Centro de Investigación y Seguridad Nacional (CISEN). Se agrego que desde el mes de diciembre de 2004 y hasta la fecha, el CIAM-Cancún habría recibido amenazas por haber denunciado actos de abuso sexual de niños y niñas por parte de un empresario, cuya identidad tenemos conocimiento, y quien se encuentra detenido en Arizona, Estados Unidos, acusado de abusos y prostitución infantil. Según las informaciones los integrantes del CIAM habrían recibido amenazas por teléfono y por medio de una lista enviada a la policía de seguridad pública local, en la cual aparece el nombre de la Sra. Lydia Cacho como una de las personas a quienes dicho señor habría mandado asesinar. aunque las autoridades habrían sido informadas de los presuntos actos de hostigamiento sufridos por los miembros del CIAM, ni la Representante Especial ni los Relatores Especiales tienen conocimiento de eventuales investigaciones sobre estos hechos ocurridos ni si se han otorgado medidas de protección a favor de los denunciantes. Se temo que estas presuntas amenazas de muerte en contra de la Sra. Lydia Cacho Ribero, y del equipo del Centro de Crisis para Víctimas (CIAM), estuvieran relacionadas con su trabajo en defensa de las niñas y mujeres que corren peligro.

328. El 4 Mayo 2005, la Representante Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente en relación con la situación de inseguridad y peligro en la que se encontraría la Sra. **Obtilia Eugenio Manuel**, fundadora de la Organización del Pueblo Indígena Tlapaneco (OPIT) y defensora de los derechos humanos de dicho pueblo en el municipio de Ayutla de los Libres, Guerrero, cuyo caso fue ya objeto de un llamamiento urgente enviado el 16 de febrero del 2005 por 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, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Representante Especial del Secretario-General para los defensores de los derechos humanos. Según la información recibida, el 14 de abril de 2005, aproximadamente a las 15:00 horas, la Sra. Obtilia Eugenio Manuel salió de las oficinas del Centro de Derechos Humanos de la Montaña “Tlachinollan” A.C., dirigiéndose a una caseta telefónica en la calle principal Plan de Ayutla. Observó entonces un coche gris sin placa en la parte trasera estacionado en frente de dicho local. Dentro del coche se encontraban cuatro personas, incluyendo un elemento de la Policía Ministerial del Estado de Guerrero, de cuyo nombre tienen conocimiento la Representante Especial y el Relator Especial. Al salir de la caseta, se encendió el motor del coche. La afectada, sintiéndose vigilada, subió a un taxi, saliendo del lugar y perdiendo de vista al auto gris. El viernes 15 de abril, aproximadamente a las 16:00 horas, el Sra. Manuel salió de su casa ubicada en el Barrio San Felipe, percatándose de la cercanía del vehículo gris que había visto el día anterior. El coche avanzó muy lentamente detrás de ella durante unos 50 metros y se estacionó frente al consultorio en el que ingresó el Sra. Manuel. La afectada observo la presencia de cinco personas a bordo del coche, identificando nuevamente al mismo elemento de la Policía Ministerial. En la parte delantera el auto tenía la placa GX72626 del Estado de Guerrero, con una franja roja en la que se señalaba “servicio particular”. Al salir del consultorio, el coche se puso nuevamente en marcha y avanzó lentamente

en dirección al domicilio de la afectada. Días después la Sra. Manuel vio este vehículo estacionado frente a las instalaciones de la Comandancia de la Policía Ministerial del Estado de Guerrero en Ayutla de los Libres. Se expresó temor que estos actos de hostigamiento pudieran estar relacionados con el trabajo que la Sra. Manuel efectúa en defensa de Me Phaa Valentina Rosendo Cantú e Inés Fernández Ortega, dos indígenas que denunciaron haber sufrido actos de violación y tortura por elementos militares.

329. El 18 de julio 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, el Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía, y la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, envió un llamamiento urgente en relación con la situación de la Sra. **Lydia Cacho Ribeiro**, Presidenta del Centro de Crisis para Víctimas, Centro Integral de Atención a las Mujeres (CIAM) en Cancún, Estado de Quintana Roo, cuyo caso ya fue objeto de un llamamiento urgente enviado el 23 de febrero de 2005 por la Representante Especial del Secretario-General para los defensores de los derechos humanos con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión; Relator Especial sobre la venta de niños, la prostitución infantil y la utilización de niños en la pornografía; Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias. De acuerdo con las informaciones recibidas, entre el 25 de abril de 2005 y el 1 de julio, Lydia Cacho Ribeiro habría recibido al menos 42 llamadas telefónicas amenazantes en las oficinas del CIAM. Según se informó, parece ser que todas las llamadas habrían sido realizadas por un ex agente de la Policía Judicial del Estado, que también habría pertenecido a una unidad anti-secuestros de la Agencia Federal de Investigación y cuyo nombre tenemos en nuestro conocimiento. Según los informes, la esposa e hijos de aquel hombre están actualmente en un refugio del CIAM. De acuerdo con las informaciones recibidas: en algunas de las llamadas telefónicas más recientes, el hombre habría dicho “Esto es para Lydia Cacho, que sepa que pronto estaré en Cancún, cuando menos se lo espere [...] La PGR no puede hacerme nada [...] quienes se meten conmigo sufren hasta la muerte”. Según los referidos informes, el 30 de junio, el ex agente habría visitado el refugio para mujeres en la ciudad de Saltillo, estado de Coahuila, y habría acosado a la directora, exigiéndole que dijera a Lydia Cacho Ribeiro que dejara de hablar sobre su caso, y que le devolvieran a su esposa y sus hijos. Se teme que estas presuntas amenazas en contra de la Sra. Lydia Cacho Ribeiro, y del equipo del Centro de Crisis para Víctimas (CIAM), estuvieran relacionadas con su trabajo en defensa de las niñas y mujeres que corren peligro.

330. El 3 de octubre 2005, la Representante Especial, junto con el Relator Especial sobre la tortura y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, envió un llamamiento urgente en relación con el **Sr. Teodoro Pérez Pérez**, indígena tsotsil, de la comunidad de Yabteclúm, municipio de Chenalhó, Estado de Chiapas, cuyo caso ya fue objeto de una comunicación enviada el 19 de julio de 2005 por el Relator Especial sobre la tortura y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas. De acuerdo con las alegaciones recibidas, desde el pasado 20 de agosto de 2005, dos personas uniformadas como miembros de la Policía Sectorial del Estado de Chiapas, se habrían presentado, en diferentes ocasiones y de manera intimidatoria, en el domicilio del Sr. Teodoro Pérez Pérez. Su esposa les habría atendido solicitando sus datos y el motivo de su presencia, información que los presuntos policías se habrían negado a proporcionar. De acuerdo con las informaciones recibidas, se teme que estos

actos de intimidación hacia el Sr. Teodoro Pérez Pérez y su familia sean una represalia por la denuncia penal por tortura presentada por los indígenas toztiles Sres. Teodoro Pérez Pérez y Juan Pérez Pérez ante la Fiscalía General del Estado, en contra de dos miembros de la Policía Sectorial, denuncia penal conocida por la Fiscalía Especializada para la Atención de Delitos cometidos por Servidores Públicos, ubicada en la ciudad de Tuxtla Gutiérrez.

331. El 3 de octubre 2005, la Representante Especial, junto con el Relator Especial sobre la tortura, el Relator Especial sobre los derechos humanos y las libertades fundamentales de los indígenas, 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 urgente con respecto a **Olga Isabel León Victoria** y a **Zoila Reyes Santiago** de la comunidad indígena mixteca de San Isidro Vista Hermosa, en el distrito de Tlaxiaco, estado de Oaxaca. De acuerdo con la información recibida, el 29 de agosto del 2005, Olga Isabel León Victoria de 17 años habría sido secuestrada por un hombre enmascarado que le habría obligado a entrar en una furgoneta en cuyo interior se encontraba otro hombre y una mujer. Seguidamente, la furgoneta se habría trasladado a un lugar desconocido donde Olga Isabel habría sido violada por los captores varones. Esa misma tarde la familia habría recibido una llamada anónima en la que se informaba que Olga Isabel se encontraba secuestrada por autoridades de Santa Cruz de Nundaco. El 30 de agosto del 2005, Olga Isabel habría sido obligada a llamar a Zoila Reyes Santiago, conocida dirigente del grupo de San Isidro, para comunicarle que los secuestradores pretendían secuestrar a la hija de Zoila en lugar de ella. El 31 de agosto del 2005, Olga Isabel habría sido puesta en libertad a 40 kilómetros de Santa Cruz Nundaco. Los secuestradores le habrían entregado un sobre con amenazas contra Zoila Reyes y su familia. Asimismo, hemos recibido alegaciones sobre la situación de continuo acoso, amenazas e intimidaciones en la que se encontrarían Olga Isabel y su familia. Según los datos recibidos, la familia de Olga Isabel habría sido seguida por un automóvil con cristales tintados y Olga Isabel habría estado intimidada en varias ocasiones por varones inidentificables con señales obscenas cuando caminaba por la calle. Resultan preocupantes las denuncias recibidas respecto de la supuesta conducta de las autoridades estatales quienes se habrían mostrado reacias a aceptar las denuncias de acoso a la familia y a prestar alguna medida de seguridad para proteger a Olga Isabel y su familia.

332. El 12 de octubre de 2005, la Representante Especial junto con el Relator Especial sobre la tortura, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente con respecto al Sr. **Agustín Chávez**, periodista del Noticiero "Enlace Informativo", que transmite la radioemisora "La Poderosa 830 AM" de Tlaxiaco, Oaxaca. De acuerdo con las alegaciones recibidas, el 4 de octubre de 2005, a las 14:30 horas aproximadamente, Agustín Chávez fue agredido en la calle por dos hermanos del ex presidente municipal de Tlaxiaco. Agustín Chávez caminaba junto con otro hombre cuando dos individuos se aproximaron y le dijeron: "Hijo de la chingada, a ti te andamos buscando". Le golpearon durante unos diez minutos, hasta que el Sr. Chávez perdió el conocimiento. Le robaron su cámara, un teléfono móvil y algo de dinero. Al parecer, amenazaron con matarle por haber denunciado la presunta corrupción de algunas autoridades municipales de Tlaxiaco; lo que perjudicaba al hermano de sus agresores. Varios colegas del periodista llegaron al lugar y condujeron al Sr. Chávez a un consultorio médico. El médico ordenó su hospitalización y mantenerlo en observación durante 24 horas. Se informa también que esta agresión fue precedida de varios intentos de intimidación. El 3 de junio de 2005, el periodista recibió una llamada

telefónica de un hombre que le dijo que “le bajara el tono o no seguiría vivo para hablar con nadie”. Al parecer, el 17 de septiembre, un miembro del actual gobierno municipal de Tlaxiaco le abordó en la calle y le pidió que se retractara de lo que había escrito sobre él en una entrevista. El Sr. Chávez pidió al hombre que no le amenazara, y al parecer, éste le respondió golpeándole. Agustín Chávez presentó ante la oficina local del Ministerio Público una denuncia formal en la que detalla las agresiones que ha sufrido. También presentó una denuncia ante la Fiscalía Especial de Oaxaca para la Atención de Delitos Contra Periodistas. Se teme que estos actos de intimidación y agresión contra Agustín Chávez estuvieran vinculados a su trabajo periodístico.

333. El 11 de noviembre del 2005, la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente con respecto a la situación de inseguridad y peligro en la que se encontraría el abogado **Leonel Rivero Rodríguez** y su familia. El Sr. Leonel Rivero Rodríguez fue objeto de un llamamiento urgente enviado por la Representante Especial del Secretario General sobre la situación de los derechos humanos y la Relatora Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias el 10 de abril de 2002. Según la información recibida, el abogado Leonel Rivero habría recibido amenazas de muerte en tres ocasiones y habría sido sujeto de persecuciones por las calles de la ciudad al salir de una reunión de trabajo acompañado de los agentes encargados de su protección. También, los agentes que lo protegían habrían sido asaltados, y además, su mujer habría sido víctima de un intento de atropello. En este contexto, en octubre de 2001 la Corte Interamericana de Derechos Humanos habría ordenado al Gobierno mexicano, como consecuencia del asesinato de Digna Ochoa, la cual trabajaba conjuntamente en algunos casos con Leonel Rivero Rodríguez, implementar medidas para proteger la seguridad e integridad del abogado y su familia, incluyendo la investigación de los hechos mencionados, para identificar y sancionar a los responsables. Dichas medidas habrían sido implementadas y la orden que les dio origen se encontraría vigente, incluso reiterada el 29 de junio de 2005 en una resolución emitida por la Corte. El 22 de septiembre de 2005, el Gobierno mexicano habría decidido sin motivo alguno retirar las medidas de protección al abogado Leonel Rivero Rodríguez, y no implementar las medidas a favor de su familia. Ante esta situación, el 7 de octubre de 2005, la Corte Interamericana de Derechos Humanos habría solicitado al Gobierno a proseguir con las medidas de seguridad adoptadas a favor de Leonel Rivero. En este contexto, habría transcurrido más de un mes desde que la Corte habría ordenado el restablecimiento de las medidas de protección a favor de Leonel Rivero, sin la correspondiente respuesta por parte del Gobierno. Paralelamente, hasta la fecha, ninguno de los hechos sujetos en la investigación habría sido aclarado por el Gobierno, ni se habrían identificado ni sancionado a los responsables.

334. El 15 de noviembre del 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió un llamamiento urgente con respecto a la situación de la Señora **Yesica Sánchez Maya**, Presidenta de la Liga Mexicana por la Defensa de los Derechos Humanos (LIMEDDH) filial Oaxaca, una organización que denuncia casos de violación o incumplimiento de los derechos humanos, y el Señor Israel Ochoa, Asesor legal de la LIMEDDH. Según la información recibida, el 30 de octubre de 2005, Yesica Sánchez Maya e Israel Ochoa habrían sido amenazados por miembros de la Policía Preventiva del Estado de Oaxaca mientras viajaban en autobús, de regreso de la comunidad de San Juan Lalana donde habrían dado un taller sobre derechos humanos. Once miembros de la Policía habrían subido al autobús alegando que se trataba de una intervención

rutinaria. Sin embargo, y a pesar de no tener una orden para llevar a cabo la revisión, habrían obligado a Yesica Sánchez Maya, Israel Ochoa y dos colaboradores que viajaban con ellos a bajarse del autobús y les habrían exigido dejar de frecuentar la región. Además, les habrían dicho que tenían conocimiento de las distintas actividades que efectuaban en la comunidad. Luego los policías se marcharon en una camioneta. Se expresan temores por la seguridad de Yesica Sánchez Maya, Israel Ochoa y los miembros de la Liga Mexicana por la Defensa de los Derechos Humanos. Se teme que este incidente fuera una forma de acoso para intentar minar su trabajo de los defensores de los derechos humanos en Oaxaca.

### **Comunicaciones recibidas**

335. Por cartas con fecha 24 de febrero y 4 de julio de 2005, el gobierno de México transmitió la siguiente información en relación con las comunicaciones del 26 de febrero de 2005 sobre el caso de la Sra. **Obtilia Eugenio Manuel**. El Gobierno informó que la Comisión Interamericana de Derechos Humanos (CIDH) solicitó al Gobierno mexicano adoptar medidas cautelares para la protección de la Sra. Obtilia Eugenio Manuel y sus familiares. Las medidas cautelares otorgadas por el CIDH con el fin de proteger a la Sra. Obtilia Eugenio Manuel son vigentes seis meses y se informa periódicamente a la CIDH sobre su nivel de cumplimiento. Después de dos reuniones entre las autoridades pertinentes (Procuraduría General de la República, Policía Federal Preventiva de la Secretaría de Seguridad Pública del Estado de Guerrero, Comisión Estatal de Derechos Humanos del Estado de Guerrero) y los representantes de los beneficiarios se lograron avances en la implementación de las medidas de protección: El Gobierno mexicano se comprometió a que la Policía Federal Preventiva hiciera rondas dos veces por semana. Además de las rondas policiales, la Sra. Obtilia Eugenio Manuel fue acompañada en distintas ocasiones por la ONG Peace Brigades International. En cuanto al esclarecimiento judicial de los hechos, el Gobierno de México facilitó la presentación de la denuncia ante el Delegado de la Procuraduría General del Estado de Guerrero para que una investigación fuera realizada. La Procuraduría General de la República en el Estado de Guerrero abrió una averiguación previa pero a la fecha no hay resultados definitivos. Finalmente, el Gobierno mexicano ha informado a la Secretaría de la Defensa Nacional, al Gobernador del Estado de Guerrero y al Presidente municipal de Ayutla de los Libres, Guerrero, que Obtilia Eugenio Manuel y su familia benefician de medidas cautelares otorgadas por la CIDH.

336. Por carta con fecha de 23 de diciembre de 2005, el gobierno de México transmitió la siguiente información en relación con la comunicación del 18 de julio de 2005 relativa a la Sra. **Lydia Cacho Ribero**. La Procuraduría General del Estado de Quintana Roo no tenía documentada ninguna denuncia de las amenazas de las que dicen haber sido víctimas Lydia Cacho y el personal del Centro Integral de Atención a la Mujer e insta a la afectada a que acuda a la autoridad ministerial competente para presentar denuncia. No obstante lo anterior, desde el 18 de febrero de 2005, se habían implementado medidas de protección para salvaguardar la integridad física de Lydia Cacho, del personal que trabaja con ella y de las personas que se encuentran bajo su custodia y en todo momento se habían ofrecido garantías para que durante la investigación la víctima se encuentre protegida. La Comisión Nacional de los derechos humanos solicitó a la Procuraduría General de la República la implementación de medidas cautelares a favor de Lydia Cacho, de acuerdo a la Recomendación General Número 7 relacionada con violaciones a la libertad de expresión de periodistas o comunicadores. Para cumplir con la

solicitud, la Procuraduría instruyó a la Agencia federal de Investigación para que sus agentes brinden protección a Lydia Cacho.

337. Por carta con fecha de 23 de noviembre de 2005, el gobierno de México transmitió la siguiente información en relación con la comunicación del 3 de octubre de 2005 en relación con la señora **Zoila Reyes Santiago** y la menor **Olga Isabel León Victoria**. El gobierno informo que aun las autoridades ministeriales del Estado de Oaxaca se encontraban averiguando los hechos alegados, el Gobierno no estaba en posibilidad de calificarlos. En la denuncia presentada por Olga Isabel León Victoria el 1 de septiembre de 2005, señalo como probables responsables de los actos cometidos en su contra a autoridades municipales de la población de Santa Cruz Nundanco. El 8 de septiembre de 2005 esa averiguación fue radicada ante el Agente del Ministerio Publico en contra de quien o quienes resulten responsables de los delitos de privación ilegal de la libertad y demás que se configuren en agravio de Olga Isabel León Victoria y se giro oficio de investigación a la Policía ministerial del Estado. El 9 de septiembre de 2005 el Agente del Ministerio Publico se traslado a la población de Tlaxiaco, Oaxaca, a efecto de localizar a la ofendida para solicitar mayores datos y realizar una inspección ocular en los lugares donde ocurrieron estos hechos .El Gobierno aclaro que hasta el momento de escribir se tenían identificados a los probables responsables pero la sanción correspondiente solo podría ser adoptada hasta que la autoridad jurisdiccional determinaría la responsabilidad de quienes hubiesen cometido los delitos. El 25 de mayo de 2005 se creo la Fiscalía Especial para la atención de delitos contra la mujer. El 21 de octubre de 2005 el Gobierno de Oaxaca a traves de la Procuraduría General de Justicia del Estado realizo el Seminario de Violencia Domestica, cuya finalidad fue prevenir y combatir la violencia contra las mujeres en ese Estado.

338. Por carta con fecha el 23 de diciembre de 2005, el gobierno de México transmitió la siguiente información en relación con la comunicación del 3 de octubre de 2005 en relación con Sr. **Teodoro Pérez Pérez**. La Fiscalía General del Estado de Chiapas informo que dieron inicio a las averiguaciones previas por los delitos de tortura, privación de la libertad y los que resultaran responsables, la primera en contra de Eliseo Guzman, Martin Sanchez y quienes resultaron responsables en agravio Teodoro Perez Perez. En cuanto a las medidas relativas a salvaguardar la integridad física y psicológica de los señores Perz Perez, la Fiscalía Especializada para la Atención de Delitos Relacionados con Servidores Públicos, quien en términos e lo dispuesto por los artículos 21 de la Constitución Federal, 47 de la Constitución Local. 38 de la Ley Orgánica y 52 del Reglamento Interno de la FGE Chiapas, 2 y 9 y demás relativos del Código de Procedimientos Penales del Estado, determinara conforme a derecho corresponda.

339. Por carta con fecha de 16 de diciembre de 2005, el gobierno de México transmitió la siguiente información en relación con la comunicación del 12 de octubre de 2005 sobre el caso del Sr.**Agustín Chávez**. El gobierno informo que el incidente del 3 de octubre de 2005 no fue derivado de la actividad periodística del Sr. Chávez sino de un conflicto personal entre el afectado y el agresor, después de que el Sr. Chávez agrediera verbalmente a la esposa de éste. El mismo día, se inició la averiguación previa 175(I)/2005 en contra de quien o quienes resulten responsables del delito de amenaza en agravio de Agustín Chávez quien presentó denuncia. La averiguación previa sobre las amenazas se encuentra en período de integración. El 3 de octubre de 2005, el Sr. Chávez se presentó ante la Agencia del Ministerio Público del Segundo Turno de la Ciudad de Tlaxiaco para interponer denuncia de los hechos en la que señaló que fue agredido y amenazado por lo que estaba diciendo en la radio. Se inició la averiguación previa 308(I)/2005,

en contra de quien o quienes resulten responsables de lesiones dolosas, amenazas y robo con violencia. El 7 de octubre de 2005, se realizó la ampliación de la declaración del Sr. Chávez en la que señaló a sus agresores. El 6 de octubre, uno de los presuntos agresores solicitó su intervención. El 13 de octubre se requirió al Sr. Chávez que presente testigos. Hasta la fecha el Sr. Chávez no ha presentado testigos ni ha aportado pruebas para la debida integración de la averiguación previa.

340. Por carta con fecha de 22 de diciembre de 2005, el gobierno de México transmitió la información siguiente en relación con el llamado urgente enviado el 11 de noviembre de 2005 en el caso del Sr. **Leonel Guadalupe Rivero Rodríguez**. El Gobierno informó que las medidas de seguridad otorgadas a favor del Sr. Rivero Rodríguez no fueron retiradas pero modificadas. Desde noviembre de 2001, fecha en que la Corte Interamericana de Derechos Humanos otorgó medidas provisionales en su favor, se implementó un servicio de escolta integrado por cuatro miembros de Agencia Federal de Investigación de la Procuraduría General de la República que lo acompañaban de forma permanente. Durante cuatro años, se presentaron algunos incidentes menores, pero en ningún momento la vida del Sr. El 23 de septiembre de 2005, el Estado mexicano decidió realizar una modificación a la modalidad de las medidas a través de rondines policíacos en el domicilio de los beneficiarios, números telefónicos de emergencia para dar respuesta inmediata ante cualquier anomalía o emergencia. El 7 de octubre de 2005, la Corte Interamericana de derechos humanos determinó solicitar al Gobierno de México la reinstalación de dichas medidas. Existen varias investigaciones con motivo de diversos incidentes en los que se ha visto involucrado el Sr. Rivero Rodríguez.

### **Observations**

341. The Special Representative thanks the Government of Mexico for its responses to her communications of 2005.

342. She is encouraged by the steps taken by the Government to investigate the reported violations and by the concrete efforts made with a view to protect defenders. She nevertheless remains concerned about the persistence of the attacks perpetrated against defenders despite the measures taken and looks forward to receiving more information with regard to the results of current investigations as well as information with regards to perpetrators being brought to justice.

## **Mongolia**

### **Communications sent**

343. On 6 July 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health sent an urgent appeal concerning Lodoisambuu Sanjaasuren, aged 60 years, a lawyer and member of the Mongolian Advocate Association, a non-Governmental body uniting all defense attorneys. According to information received, in November 2004, Lodoisambuu Sanjaasuren was sentenced to 18 months imprisonment, by Chingeltei District Court, under article 87-1 of the Criminal Code of Mongolia for “disclosure of a state secret”. It was reported that this conviction was in

connection to his work defending a client who denounced torture practices by officers from the General Intelligence Agency (GIA). Lodoisambuu Sanjaasuren's client (whose identity is known to the Special Representative) was allegedly kidnapped from France by Mongolian intelligence officers who reportedly threatened him and forced him to involuntarily sign a letter which made him an informant. On 25 September TV 25, a Mongolian channel broadcasted an interview of a taped meeting between Lodoisambuu Sanjaasuren and his client in which the latter denounced the actions reportedly committed by Mongolian intelligence officers against him. According to the information received, Lodoisambuu Sanjaasuren is being held in a "restricted prison" outside the city of Ulaanbaatar, Bayanzurkh District. Lodoisambuu Sanjaasuren is reportedly suffering from a serious heart condition for which he requires urgent medical attention. It was reported that since his imprisonment in November 2004 Mr. Sanjaasuren was allowed to see his doctor twice in November 2004 and March 2005 and has since then been denied such access to his doctor. His health is reportedly "critical". In view of these allegations, concern is expressed for Lodoisambuu Sanjaasuren's physical and mental integrity if he does not receive prompt and adequate medical treatment. Concern is expressed that Lodoisambuu Sanjaasuren may be denied medical treatment as a result of his human rights activities, in particular, for defending a client.

### **Observations**

344. The Special Representative regrets that at the time this report was being finalized, no response had been received from the Government of Mongolia.

## **Morocco**

### **Communications envoyées**

345. Le 27 juillet 2005, la Représentante spéciale du Secrétaire général, 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, le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant M. **El Houssein Lidri**, M. **Brahim Noumria**, membres du Forum vérité et justice Sahara dissout en 2003, et M. **Laarbi Massoud**, ex-détenu politique en 1999, connu pour ses engagements en faveur des droits humains. Selon les informations reçues, le 20 juillet 2005, vers 10 heures du matin, des agents de la Direction de la surveillance du territoire (DST) auraient fait irruption au domicile de l'activiste sahraouie M<sup>me</sup> Fatma Ayach à Laayoune, où ils auraient arrêté M. El Houssein Lidri, M. Brahim Noumria et M. Laarbi Massoud, trois activistes sahraouis. Les forces de sécurité auraient conduit les trois hommes vers un endroit inconnu, où ils seraient toujours détenus sans accès à l'assistance d'un avocat ni contacts avec leurs familles. Face aux allégations de détention incommunicado, la Représentante spéciale du Secrétaire général et les Rapporteurs spéciaux ont exprimé leur vive préoccupation quant au fait que M. El Houssein Lidri, M. Brahim Noumria et M. Laarbi Massoud puissent être exposés à un risque de torture ou à d'autres formes de traitements inhumains ou dégradants.

346. Le 28 juillet 2005, la Représentante spéciale du Secrétaire général, 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 le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant la situation de

M<sup>me</sup> **Aminatou Haidar**. Selon les informations reçues, M<sup>me</sup> Aminatou Haidar aurait été arrêtée vers 23 h 30 le 17 juin 2005 à l'hôpital Hassan ben Mehdi de Laayoune, où elle recevait des soins suite à de graves blessures subies au cours de l'intervention des forces de sécurité lors d'une manifestation pacifique à Laayoune dans l'après-midi du même jour ayant pour but de dénoncer les violations des droits de l'homme perpétrées par les autorités marocaines à l'encontre des citoyens sahraouis. M<sup>me</sup> Haidar aurait été emmenée au commissariat central de police de Laayoune, dans l'avenue de Smara, où elle aurait été détenue en isolement et soumise à des longs interrogatoires. Elle aurait de surcroît été privée de médicaments et d'alimentation, apparemment pour réduire sa résistance. Le 20 juin 2005, M<sup>me</sup> Haidar aurait été transférée à la prison Noire de Laayoune, où elle serait toujours en détention. Face aux allégations de détention incommunicado et de privation de médicaments et d'alimentation, la Représentante spéciale du Secrétaire général a exprimé sa vive préoccupation pour l'état de santé de M<sup>me</sup> Haidar ainsi que concernant les allégations selon lesquelles M<sup>me</sup> Haidar aurait été attaquée et frappée, sans avertissement, par les forces de l'ordre pendant qu'elle était en train de préparer, avec un groupe d'activistes, une manifestation pacifique pour dénoncer des violations des droits humains.

347. Le 8 novembre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Vice-Président 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, a envoyé une communication concernant M. **Gaoudi Mohamed Fadel**, membre du Conseil national du Forum vérité et justice (FVJ), M. **Iguilid Hammoud**, Président de la section de Laayoune de l'Association marocaine des droits de l'homme (AMDH), et M. **Brahim Sabbar**, Secrétaire général de l'Association sahraouie des victimes des violations massives des droits de l'homme commises par l'État marocain au Sahara occidental, et M. **Brahim Dahane**, ancien disparu et Président de cette dernière association. Selon les informations reçues, le 30 octobre 2005, un rassemblement populaire en faveur de la cause sahraouie se serait tenu à Laayoune. Lors de ce rassemblement, les membres des Groupes urbains de sécurité (GUS) et d'autres forces de sécurité marocaines auraient fait usage de la violence. En particulier, M. Hamdi Lambarki, 31 ans, aurait été battu par 11 agents des GUS, et serait décédé à la suite de ses blessures dans l'après-midi. La police judiciaire aurait également arrêté plus de 70 personnes qu'elle aurait relâchées deux ou trois heures plus tard, dont M. Lakhel Mohamed Salem, membre de l'Association sahraouie des victimes des violations graves des droits de l'homme commises par l'État marocain au Sahara occidental. Vers 3 heures du matin, MM. Gaoudi Mohamed Fadel, Iguilid Hammoud et Brahim Sabbar se seraient rendus au commissariat central pour s'informer du sort de M. Lakhel Mohamed Salem, où ils auraient été sévèrement battus par des agents des GUS, à l'extérieur du commissariat. Alors qu'elles voulaient leur porter secours, M<sup>me</sup> Yaya Manni, épouse de M. Gaoudi Mohamed Fadel et membre de l'Association sahraouie des victimes des violations graves des droits de l'homme commises par l'État marocain au Sahara occidental, et ses sœurs, M<sup>mes</sup> Mariam Aicha et Soukaina, auraient elles aussi été battues. Le 31 octobre 2005, M. Lakhel Mohamed Salem aurait été libéré sans charge. Selon des informations complémentaires, vers 17 h 45, M. Brahim Dahane aurait été arrêté par des membres des GUS, alors qu'il prenait part à un rassemblement spontané devant la maison de la famille du jeune défunt sahraoui M. Hamdi Lambarki, et qu'il communiquait par téléphone des informations sur la mort de ce dernier à l'agence espagnole EFE. Le 1<sup>er</sup> novembre 2005, M. Brahim Dahane aurait comparu devant le procureur général du tribunal pénal de Laayoune, qui aurait ordonné de le conduire à la «prison Noire» de Laayoune. Il serait accusé de «constitution d'un groupe criminel» et d'«adhésion à une organisation non autorisée».

### Communications reçues

348. Le 19 septembre 2005, le Gouvernement a répondu à la communication du 27 juillet 2005 selon lesquelles les dénommés Mohamed El Moutaouakil, Larbi Massoud, Houssein Lidri, Ali Salem Tamek, Aminatou Haidar et Ibrahim Noumria auraient été victimes de mauvais traitements et d'une violation du délai légal de garde à vue. Le Gouvernement a indiqué que, suite à l'enquête effectuée par la police judiciaire, il se serait avéré que les accusés, qui avaient été arrêtés à la suite des événements qu'a connus la ville d'Al Ayoun, étaient impliqués dans des actes criminels qui auraient consisté à détruire des biens publics et privés, à jeter des pierres et des cocktails Molotov sur des passants et des véhicules, à allumer le feu sur la voie publique, à endommager des véhicules privés, des véhicules de police et des motocyclettes, et à occasionner à des membres de la force publique des blessures plus ou moins graves. En outre, selon le Gouvernement, il est reproché à certains des accusés d'être impliqués, en tant que participants ou instigateurs, dans des actes de violence et des troubles de l'ordre public, ayant pris comme prétexte le transfert du prisonnier Ahmed Heddi de la prison centrale d'Al Ayoun à celle de Ayat Melloul pour exacerber les tensions et monter des groupes de jeunes contre les forces de l'ordre en leur fournissant les moyens et les armes nécessaires à cet effet. Quant à la dénommée Aminatou Haidar, le Gouvernement a signalé qu'elle avait été placée en garde à vue du 17 juin 2005 à 22 heures jusqu'au 19 juin 2005, après le prolongement du délai de garde à vue de 24 heures sur ordre du procureur du roi. La mère de l'intéressée, Dejjia bent Mohammed Fadhel, a été avertie et la défense de M<sup>me</sup> Haidar durant l'instruction a été confiée à M<sup>e</sup> Habib El Reguibi. En ce qui concerne l'allégation selon laquelle il y a eu violation du délai de garde à vue, le Gouvernement a précisé que le dénommé Ali Salem Tamek avait été arrêté le 18 juillet 2005 sur ordre du procureur général du roi et placé en garde à vue pour interrogatoire. Il a reçu au cours de sa garde à vue la visite du procureur général du roi d'Al Ayoun, qui s'est enquis de son état de santé et s'est assuré du respect des garanties devant être observées au cours de la garde à vue. Il a en outre reçu la visite de son avocat, M<sup>e</sup> Habib El Reguibi du barreau d'Agadir Al Ayoun, et a été présenté, le 21 juillet 2005, au procureur général, qui a décidé de demander l'ouverture d'une enquête au sujet des actes qui lui étaient imputés. L'intéressé a donc été déféré devant le juge d'instruction. Il a bénéficié de toutes les garanties juridiques. Quant aux dénommés Houssein Lidri, Ibrahim Noumria, Larbi Massoud et Mohammed El Moutaouakil, ils ont été placés en garde à vue le 20 juillet 2005 pour être interrogés sur leur participation aux actes qui leur étaient imputés. Ils ont bénéficié de toutes les garanties légales tant en ce qui concerne le délai légal de garde à vue que l'inscription de leurs noms sur le registre de garde à vue. Le 23 juillet 2005, ils ont été présentés au procureur général du roi près la cour d'appel d'Al Ayoun, qui a décidé de demander l'ouverture d'une enquête sur les actes qui leur étaient imputés. Devant le procureur général et le juge d'instruction, les accusés étaient représentés par M<sup>e</sup> Mohammed Abou Khaled et M<sup>e</sup> Hassen Benman du barreau d'Agadir Al Ayoun. Après avoir été interrogés par le juge d'instruction, ils ont été écroués. Pour ce qui est des allégations selon lesquelles les intéressés ont été victimes de mauvais traitements et de torture, il y a lieu de signaler que ni le dénommé Ali Salem Tamek ni son avocat n'ont réclamé devant le procureur général du roi un examen médical et aucune trace de violence n'a été constatée sur le corps de l'intéressé. Dès que M. Tamek a été déféré devant le juge d'instruction, le 21 juillet 2005, des instructions ont été données pour qu'il fasse l'objet d'une visite médicale. Un examen effectué par trois médecins a montré qu'il n'y avait aucune trace de violence ou de torture et que son état de santé était normal. D'autre part, conformément à l'article 88 du Code pénal, le juge d'instruction a demandé, le 26 juillet 2005, que l'accusé subisse un examen psychique à l'hôpital

psychiatrique de la ville d'Inazagan. À cet effet, le détenu a été transféré à la prison d'ayat Melloul pour qu'il soit à la disposition des médecins et que les examens nécessaires soient effectués dans les meilleures conditions. Après son transfert à la prison susmentionnée, le détenu a affirmé avoir fait l'objet d'un traitement humiliant de la part d'un agent de la force publique. En conséquence, le procureur général du roi près la cour d'appel d'Al Ayoun a demandé l'ouverture d'une enquête. En ce qui concerne les autres personnes mentionnées plus haut, le juge d'instruction a demandé que les accusés Houssein Lidri, Ibrahim Noumria, Larbi Massoud et Mohammed El Moutaouakil fassent l'objet d'un examen médical, qui a été effectué par le docteur Saïd Ramadhan Akoudad de l'hôpital Moulay El Hassan Belmahdil. L'examen n'a révélé aucune trace de violence ou de torture. D'autre part, à la demande de l'avocat d'Aminatou Haidar, le juge d'instruction a ordonné qu'elle fasse l'objet d'un examen médical. Le Gouvernement a également signalé que Houssein Lidri, Ibrahim Noumria et Aminatou Haidar ont déposé des plaintes selon lesquelles ils auraient été brutalisés par des membres de la police. Suite à ces allégations, le juge d'instruction a ouvert une enquête qui est actuellement en cours. En réponse à la lettre de la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, du Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, du Rapporteur spécial sur la torture et de la Représentante du Secrétaire général concernant la situation des défenseurs des droits de l'homme, au sujet de la maltraitance et de la détention arbitraire présumées de la dénommée Aminatou Haidar, le Gouvernement a souligné qu'il ressortait de l'enquête effectuée par le procureur général du roi près la cour d'appel d'Al Ayoun que M<sup>me</sup> Haidar avait participé à des déprédations et atteintes à l'ordre public commises dans la ville d'Al Ayoun à la suite du transfert du prisonnier Ahmed Heddi de la prison de cette localité à celle d'ayat Melloul et qu'elle avait agi avec d'autres personnes impliquées dans les incidents susmentionnés, pour monter des groupes de jeunes contre les forces de l'ordre et les inciter à s'opposer aux agents qui ont essayé de les disperser. En conséquence, M<sup>me</sup> Haidar a été placée en garde à vue du 17 juin 2005 à 22 heures au 19 juin 2005 après le prolongement de son délai de garde à vue de 24 heures sur ordre du procureur général du roi. La mère de l'intéressée, Dejjia bent Mohammed Fadhel, a été avertie de la détention de sa fille. Devant le juge d'instruction, M<sup>me</sup> Haidar était représentée par M<sup>e</sup> Mohammed Habib El Reguibi du barreau d'Agadir Al Ayoun. M<sup>me</sup> Haidar s'étant plainte de violences qu'elle aurait subies entre les mains d'agents de la force publique, le juge d'instruction a ordonné qu'il soit procédé à un examen médical. Cet examen a été effectué et une enquête a été ouverte. Selon le Gouvernement, il ressort de ce qui précède que M<sup>me</sup> Haidar n'a pas été arrêtée en raison de ses opinions mais parce qu'elle avait commis des actes criminels.

### **Observations**

349. La Représentante spéciale du Secrétaire général remercie le Gouvernement marocain pour sa réponse concernant la communication en date du 27 juillet 2005 et espère recevoir bientôt une réponse à ses autres communications.

## **Myanmar**

### **Communications sent**

350. On 17 January 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent

appeal concerning Mr. **Saw Pan Koo**, a 30-year old member of National League for Democracy, who was arrested on 6 December 2004 with 13 other NLD members. Initially, they were charged with attempting to celebrate Burmese National Day; subsequently Saw Pan Koo was singled out by the authorities and charged with distributing leaflets containing the Universal Declaration of Human Rights. Reportedly, Saw Pan Koo and the other MLD members have been detained at Pyapon Prison where their trial should soon be completed.

351. On 16 February 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in Myanmar, sent an urgent appeal regarding **Mr. Khun Htun Oo**, **Mr. Sai Nyunt Lwin**, and **General Sao Hso Ten**. Reportedly, on 9 February 2005 Special Branch Police arrested Mr. Khun Htun Oo, Chairman of the Shan Nationalities League for Democracy (SNLD), and Mr. Sai Nyunt Lwin, Secretary of the SNLD. The reasons for their arrest and detention as well as their current whereabouts remain unknown. The preceding day, two further SNLD members were reportedly detained in Taungoo, central Myanmar. It is also alleged that two more SNLD members from Kengtung were arrested on their way to Yangon where they were planning to join the 58th Union Day celebration on 12 February, raising the total number of detained SNLD to six. Moreover, in Taunggyi, Shan State, security forces arrested Gen. Sao Hso Ten and several other leaders of the Shan ceasefire groups, including from the Shan State Peace Council, after they had attended a meeting between opposition and ethnic groups held in Shan State on 7 February 2005. The grounds for the detention of these Shan ethnic leaders are not clear. In view of their detention at an undisclosed location, concern was expressed for the physical and psychological well-being of the abovementioned persons.

352. On 25 February 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in Myanmar, sent an urgent appeal concerning the conditions of detention and the state of health of the following prisoners:

– **U Aung Soe Myint**, the elected Parliament Member from Taungoo constituency, detained in Insein Prison (Rangoon Division), is severely suffering from diabetes, heart disease and eye problems. He was transferred from Thayet to Insein prison to be examined for his condition, but he has not been treated adequately yet. U Aung Soe Myint was sentenced to 7 years in prison for having caused an accident while riding his motorcycle without a license.

– **U Thet Wai**, the chairperson of the National League for Democracy (NLD) (Sanchaung Branch), who is also detained in Insein Prison, underwent an operation at the end of 2004 for a gastric ulcer and appendicitis. His health situation is still precarious since he is not receiving adequate health care and has to live in halls crowded with prisoners suffering from various diseases. U Thet Wai is serving a sentence of two years imprisonment for having allegedly assisted U Ohn Than in protesting for a free and fair parliament in front of the UNDP office in Rangoon.

– **Saw Bin Son**, member of Karen National Union, has been serving a life sentence since 1984. He is suffering from tuberculosis, and eye and liver problems. He was transferred from Thayet to Insein prison in 2003, but he has never received adequate medical treatment. As a consequence, his health situation is critical.

– **Ko Thet Naung Soe**, a law student who was imprisoned in Insein prison for demonstrating in front of Rangoon City Hall, suffers severely from mental health problems and skin diseases.

– **U Kyi Toe**, the chairperson of the National League for Democracy (Chauk Branch) detained in Thayet Prison (Magway Division), suffers from hypertension and a gastric ulcer. He is serving a sentence of seven years imprisonment with hard labour for having distributed two “Messages to the Nation by the General Secretary”. His trial took place behind closed doors.

– **U Maung Maung Oo**, aged 63, the secretary of the National League for Democracy (Thayet Branch), also detained in Thayet Prison (Magway Division), suffers from a gastric ulcer due to prison food, and also suffers from gout in severe weather.

– **Ko Than Zaw**, the organizer of the Youth Wing (NLD-Tanyin Branch), was sentenced to death in 1989. He is detained in Thayet Prison (Magway Division), too, and suffers from swelling of the entire body due to the torture he received during his investigation. He also suffers from eye problems and general bad health.

– **Ko Than Lwin**, also a member of the NLD, is serving a 10 years prison sentence inflicted under the Emergency Provisions Act and the Unlawful Associations Act in Moulmein (Mawlamyaing) Prison (Mon State) since January 1999. Since June 2004, his health condition has been deteriorating and he is now in a critical condition due to lack of proper health care.

– **Ko Aye Aung** is a student serving a 45 years sentence inflicted in 1998. He is detained in Kalay Prison (Sagaing Division). Because the prison authorities do not him with blankets and other essentials notwithstanding the severe weather conditions during winter, (Ko) Aye Aung’s malaria condition has worsened.

– **Dr. Zaw Myint Maung**, the elected Parliament Member from Amarapura constituency detained in Myitkyina Prison (Kachin State), suffers from low blood pressure. Moreover, he has numerous undiagnosed black spots on his face. Dr. Maung was sentenced to 25 years imprisonment on 30 April 1991 for having attempted to form a provisional Government and for a further 12 years for having participated in the production of two news magazines.

– **U Saw Nay Don**, aged 84, chairperson of the National League for Democracy (Paukkaung branch) detained in Tharawaddy Prison (Pegu Division), suffers from hypertension.

According to the allegations received by the Chairperson-Rapporteur, Special Rapporteurs and the Special Representative, the prison authorities intentionally subjected the abovementioned detainees to living conditions that strain their health, provide them with inadequate food, and withhold medical care they need. Thereby, the prison authorities put the bodily and mental health of these political prisoners, in some instances even their lives, at risk.

353. On 4 May 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in Myanmar, sent a letter of allegation concerning Ms. **Ma Than Htay**, also known by her Buddhist name as Mar Lar Yee, and Ms. Ma Tin Tin Oo, also known as Thayzawaddy, both human rights defenders and Buddhist nuns. According to the information received, in the morning of 16 January 2003, they demonstrated near the City Hall in Yangon, calling for the release of political prisoners in Myanmar, for progress in the dialogue between the Government and the National League for Democracy (NLD) and for basic commodity prices to be lowered. It is reported that Ms. Htay and Ms. Oo were arrested on the same day and that, on 17 January 2003, the authorities announced that they had been arrested for distributing “pamphlets to agitate the people to stage demonstrations” and for shouting slogans outside the City Hall. Allegedly, the authorities accused them of “trying to instigate the people under the guise of nuns” and stated that Ms. Htay had become a nun only shortly before, after working as a migrant worker in Thailand, and that both had attended courses on human rights and democracy in Thailand. The authorities reportedly characterised the demonstration as a “scheme of the expatriate NLD insurgent group to commit destructive acts at the expense of religion”. Our information indicates that Ms. Htay and Ms. Oo were ill-treated in pre-trial detention. They were later allegedly sentenced to 13 years imprisonment under the Unlawful Associations Act and the Emergency Provisions Act, a law that is reportedly vaguely worded and that is frequently applied to peaceful protests. It is reported that their location of detention is unknown. Concern was expressed that the alleged arrests and convictions of Ms. Ma Than Htay and Ms. Ma Tin Tin Oo may be in retaliation of their human rights defence activities through their peaceful protest on 16 January 2003.

354. On 20 May 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in Myanmar, sent an urgent appeal regarding twenty-two political prisoners currently detained in Insein Prison in the capital Yangon. Two of the prisoners, **Naing Naing**, an NLD Member of Parliament who was arrested in September 2000 and sentenced to 21 years’ imprisonment for writing a letter protesting restrictions on the NLD, and **Soe Han**, an NLD lawyer who was arrested in 2000 and is currently serving 21 years’ imprisonment for writing a letter protesting restrictions on the NLD, were the subject of a previously transmitted communication (E/CN.4/2005/62/Add.1. para 1009) by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders, to which no response was received from your Excellency’s Government. According to the allegations received, on 28th April 2005, Aye Lwin, Han Win Aung, a student and member of the All Burma Federation of Student Unions (ABFSU) who was arrested in October 2003 and sentenced to 7 years’ imprisonment for distributing leaflets, Kyaw Kyaw, a student and ABFSU member, Kyaw Moe, Kyaw Naing, Lwin Ko Latt, a student and member of the All Burma Federation of Student Unions who was arrested in September 2003, Myo Khin, a member of Myanmar’s main opposition party the National League for Democracy who was sentenced to 3 years for protesting restrictions on the NLD in 2003, Myo Win, and a monk whose name is not known initiated a hunger strike in protest at the decision of the Insein Prison authorities to make

political prisoners share cells with prisoners convicted of criminal offences, who allegedly ill-treated them. The hunger strike has reportedly terminated. Two of the hunger strikers were confined to special punishment cells originally built as dog kennels for army dogs and were severely beaten by the authorities. Myint Ye, Ne Kyaw, Myint Naing and lawyer Soe Han, were transferred to other prisons in Myanmar, including Thayet Prison, 340 miles from Yangon, in connection with the hunger strike. Some of the aforementioned prisoners have been denied contact with their families and some are still in solitary confinement. Several of the hunger strikers suffer from health problems. Nine other political prisoners are also being denied contact with their relatives. Hla Moe, Htun Yin, NLD from Dallah Township, Yangon, Naing Naing, Myint Htay, an NLD Youth member and builder who was sentenced to 7 years in 2003 for distributing leaflets criticizing official plans for political transition, Nanda Sit Aung, ABFSU who was sentenced to 17 years' imprisonment in 2003 for distributing leaflets, Nan Shin Mon, a student who was sentenced to 15 years' imprisonment in 2003 for forming a student union without official permission, Ohn Than who was sentenced in 2004 to two years for a peaceful demonstration outside UNDP offices in Yangon, monk U Rajadamma, who was arrested in 2003 for refusing to accept alms from Military Intelligence officers, and Zaw Min Oo, ABFSU student, are not thought to have taken part in the hunger strike, but may be at risk of torture or ill-treatment in connection with the protest. In view of the reported health issues affecting some of the individuals, concern is expressed for their mental and physical integrity if they do not receive prompt and adequate medical attention.

355. On 3 November 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights in Myanmar sent an urgent appeal concerning Ms. **Su Su Nway**, aged 34, a youth member of the National League for Democracy, usually resident in Htan Manaing Village, Kawmoo Township, Rangoon Division. According to the information received, in January 2005, Su Su Nway successfully sued local authorities because of their forced labour practices. This was a historic case in Myanmar, as it was the first time such a case was brought to court and won by the plaintiff. Soon thereafter, the local authorities of Htan Mainang Village began to severely harass Su Su Nway, including through public taunts, in an attempt to make her flee the village. At the end of April 2005, the local authorities filed criminal charges against Su Su Nway, accusing her of "besmearing their reputation" and swearing at them under articles 506 and 294B of the Myanmar Penal Code. Su Su Nway is innocent and proclaimed her innocence. Su Su Nway was arrested on 13 October 2005, the day her trial began. Villagers seeking to be witnesses in favour of Su Su Nway were intimidated by the local authorities, who stated that those intending to testify would have to "pay a visit to the police station" before appearing as witnesses. One man was detained for 24 hours for his attempt to support Su Su Nway. Su Su Nway had not been informed in a timely manner about the charges against her and was thus unable to effectively prepare her defence. She plead not guilty to the charges, but the clerks entered a guilty plea for her. In mid-trial the original township judge, Mya Mya, was replaced by judge Htay Htay Win from Henzada township. The accused faced harassment and taunts from the authorities also during the trial. Su Su Nway suffers from a heart condition and slipped and fell during the trial, hurting herself, but the local nurse treating her was intimidated by the authorities and thereby prevented from continuing treatment of Su Su Nway. In the end, Su Su Nway was found guilty of "besmearing the reputation" of the village authorities and of swearing at them under articles 506 and 294B of the Myanmar Penal Code.

She was sentenced to 18 months imprisonment. Su Su Nway is currently detained at Insein Prison, Rangoon Division. Su Su Nway's health is deteriorating. She reportedly is unable to speak or walk properly, and the prison conditions at Insein Prison and the lack of adequate health care there are exacerbating the situation.

### **Communications received**

356. On 7 March 2005 the Government replied to the communication of 17 January 2005 concerning Mr. **Saw Pan Koo**, **Aung Zaw Ok**, **Kyaw Zeya** and **Thein Tun**. The Government stated that they were charged by the Pyapon District Police under section 17 of the Printing and registration Act. The Pyapon District Court opened the case on 16 December 2004. Aung Zaw Ok, Kyaw Zeya and Thein Tun did not appear in court as a result of which action was taken against them as absconders. Saw Pan Koo only appeared at the time of the proceedings. After hearing the witnesses, the Judge found that Saw Pan Koo and the other three were not guilty, so that the case against them was closed on 19 January 2005 and no action was taken against San Pan Koo.

### **Observations**

357. The Special Representative thanks the Government of Myanmar for its response to her communication of 17 January 2005, but deeply regrets not having received responses to her other communications of 2005.

358. She welcomes the release and the dropping of the charges against **Saw Pan Koo**.

## **Nepal**

### **Communications sent**

359. On 24 January 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, a letter of allegation concerning Mr. **Sudip Pathak**, President of the Human Rights Organisation of Nepal (HURON). On 6 January 2004, Supreme Court issued an order for the release of Mr. Dev Bahadur Maharjan, a man detained at Sundarijal detention centre near Kathmandu. The following morning, HURON sent a letter to the Home Ministry, the office of the Chief of District Officer and the spokesperson of the RNA to inform them that a delegation from HURON would visit the Sundarijal detention centre. On 7 January at 3pm, members of his family and representatives of HURON met Mr. Maharjan as he was released from Sundarijal detention centre, in order to ensure his safe passage home. A black pick up Toyota van, with five armed members of security forces in civilian clothes, was parked in the parking area. Later on, the HURON members saw another private white van, with security forces in it parked at a distance of 500 meters from the detention centre. At around 3.30 pm, at Jorpati (place), Kathmandu Metropolis ward no. 6, a policeman stopped the jeep of the HURON team and seized the licence of the driver without giving any reasons therefore. When the HURON team decided to continue without the licence, however, the policeman gave the license back. Shortly thereafter, at Baudha, Pipalbot (place) in the same ward of Kathmandu Metropolis, three vans with around 25-30 armed security personnel in civilian clothes (wearing colourful jackets, with ear rings,

beards and long hair) surrounded and stopped the jeep of HURON President Mr. Sudip Pathak, who was travelling with three other people. They identified themselves as personnel from the security forces and pointed the guns towards the jeep, and asked him whether the jeep was coming from Sundarijal. They then asked him about the whereabouts of the recently released detainee (Mr. Maharjan), without, however, mentioning his name. Mr. Pathak told them that the jeep was coming from Sundarijal, but that the person they were looking for was taken away by his family members in another vehicle. Mr. Pathak was requested to hand over his identification card, which he refused to do, but the security forces took down his name and contact details. Mr. Pathak also requested to know the names of the members of the security forces present. His request was refused.

360. On 26 January 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent a letter of allegation in connection with the following cases: Mr. **Jitman Basnet**, a lawyer and journalist (editor of the Sagaramatha Times), who has written about human rights violations. On 4 February 2004 at 6 pm, he was abducted from Tinkune, Kathmandu, by four armed men in plain clothes. He was taken to a detention camp run by the Royal Nepalese Army (RNA). During the first days of his detention he was repeatedly subjected to severe assaults by RNA members, including being kicked, punched, hit with a pipe and sticks, and repeatedly submerged in a hole filled with water. He was questioned about an article he wrote and published in the Sagaramatha Times about an incident in which the RNA allegedly killed 19 arrested Maoist rebels. Mr. Basnet was also forced to remain undressed in cold temperatures and was denied food for several days. Three sets of habeas corpus proceedings were brought on his behalf before the Supreme Court. In all three cases, the RNA denied detaining him. The RNA transferred him and other camp detainees to different places on three occasions in order to hide them from the International Committee of the Red Cross (ICRC). Mr. Basnet was released on 17 October 2004, but concern was expressed that he may be arrested again, Mr. **Bishnu Prasad Bastola**, the public relations officer of the non-Governmental organisation HimRights. On 2 December 2004, wearing the distinct HimRights LifeLine vest, he gave a ride home on his motorcycle to Mr. Bal Kumar Devkota, a man released from the central jail that day. Security forces in a van with the license plate no. Ba.2.Cha 3979, stopped Mr. Bastola in front of the Hotel Himalaya, Kuponhole, Lalitpur, and attempted to hit him several times. They pushed him aside and dragged Mr. Devkota from the motorcycle and boarded him into the van and drove away, Mr. **Kailash Thakur**, Human Rights Organisation of Nepal (HURON) Nawalparasi District President, and HURON members Mr. **Dhana Jaisi Sharma** and Mr. **Narsarulla Ansari**. On 24 December 2004, a delegation of the National Human Rights Commission (NHRC) visited Nawalparasi District, where they visited the Guthisuryapura Village Development Committee (VDC). That same evening, the same VDC suffered an attack by Maoist forces which resulted in the killing of two villagers. The following day, 25 December 2004, a group of members of civil society organisations, including Mr. Thakur, Mr. Sharma and Mr. Ansari, returned to the Guthisuryapura VDC, in order to gather information about the attack of the preceding evening. Tensions arose between the villagers and the team of civil society activists. Security forces present at the site proceeded to arrest Mr. Sharma and Mr. Ansari, purportedly for security reasons, and placed them in a police van. In the police van, both of them were blindfolded, their hands tied behind their backs, were kicked with boots and hit on their shoulders with gun butts. Having observed this treatment, Mr. Thakur approached the van and requested the security forces to stop. He was arrested and put into the same van. The security

forces took the men to the Armed Police Barrack in Bardhghat, Makar VDC. There they were photographed and taken to the office of the Chief District Officer (CDO). Their cameras were seized and they were asked to name all the persons who had accompanied the NHRC on its monitoring visit of the VDCs of Nawalparasi District. They were questioned on the whereabouts of human rights activists affiliated with the Forum for Protection Of Human Rights (FOPOHR), namely its secretary Indrajit Harijan, member Lila Dhar Marasin, and the District President of the Federation of Journalists Association of Nawalparasi District, Krishna Bahadur Karki. Mr. Thakur, Mr. Sharma and Mr. Ansari declined to answer these questions. After the questioning, they were released on the personal guarantee of the District President of the Nepal Bar Association on the condition that they report back on 28 December 2004. When the men presented themselves on 28 December 2004, they were received by the CDO and a colonel of the army, and again asked to provide the names of their colleagues who were with them on 25 December. The Army Colonel said that he had received orders to detain them in the barracks, but that he was “kind enough” to hand them over to the CDO. They were also informed that they were alleged to have links with the Maoist rebels. On the same day, 28 December 2004, Mr. Thakur, Mr. Sharma and Mr. Ansari complained to the NHRC about these incidents. In a press conference in Kathmandu on 31 December 2004, the spokesperson of the Royal Nepal Army (RNA), Brigadier General Deepak Gurung, accused international and national human rights defenders of being carried away by the Maoist propaganda and of discrediting the RNA. He further accused the “so-called human rights activists” of terrorizing the people and supporting the Maoist rebels, citing the HURON members arrested in Nawalparasi District (Mr. Thakur, Mr. Sharma and Mr. Ansari) as an example, Mr. **Naman Kumar Shahi**, a member of the Informal Sector Service Centre (INSEC), and Mr. Bhupendra Shahi, who is editor of the Gorkhapatra Daily, district Chairman of Journalist Forum and district President of the Human Rights and Peace Society (HURPES). On 2 January 2004, they went to Dailekh District to collect information relating to the killings of Mr. Dil Bahadur Rana, a member of the District Working Committee of the Nepali Congress Party, as well as the Secretary of the Independent Committee of the Internally Displaced Persons in the Dailekh District, who was killed by Maoist forces that day. At around 3pm at Nayabazaar, Narayan Municipality, the two men were assaulted and beaten by a plain clothed policeman of the Dailekh District Police Office. On behalf of the police, the Head of the district police apologized for the misconduct of these members of the security forces.

361. On 7 February 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning the arrest of the following persons: Mr. **Bishnu Nisthuri**, General Secretary of the Federation of Nepalese Journalists (FNJ), on 4 February 2005 at his residence; Mr. **Khagendra Sangraula**, columnist for Kantipur daily who has criticized the monarchy in the past, on 4 February 2005 and detained at the armed police headquarters at Halchowk, on the outskirts of Kathmandu; Mr. **Sindhu Nath Pyakurel**, former President of the Nepal Bar Association, on 1st February 2005 at his office in Kathmandu, currently detained at Armed Police Force headquarters in Halchowk. It was also been reported that several former ministers, including Former Prime Minister Sher Bahadur Deuba and other leaders, such as the Former Foreign Minister have been put under house arrest following the dissolution by King Gyanendra of Nepal of the constitutional Government on 1st February 2005 and his intention to assume direct power, as well as the proclamation of a nation-wide state of emergency and the suspension

of constitutional guarantees and civil and political liberties. In addition, reports also indicated that hundreds of political and student leaders have been arrested by security forces following the above-mentioned events.

362. On 11 February 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Krishna Pahadi**, the founding chairman of the Human Rights and Peace Society (HURPES) and the former president of Amnesty International's Nepal section. HURPES is a non-Governmental organization that focuses on non-violence, peace, human rights and democracy, and that was the subject of an urgent appeal sent by the Special Representative, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 15 September 2004, a letter of allegation sent by the Special Representative on 15 September 2004 and a letter of allegation sent by the Special Representative, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture on 26 January 2005. According to the information received, on 9 February 2005 at 3.15 p.m., around five police officers dressed in plain clothes entered the HURPES office at Kalikasthan, Kathmandu, claiming that Mr. Pahadi was required to report to the traffic police. They allegedly arrested Mr. Pahadi and took him away in a police van which was waiting outside the HURPES office building. It is reported that the police officers did not have any arrest warrant and that they did not inform Mr. Pahadi on the reasons for his arrest. Our information indicates that Mr. Pahadi is in police custody in Kathmandu and that he has received visits from family members. Deep concern is expressed that the reported arrest of Krishna Pahadi may represent an attempt to restrict his human rights defence activities and in particular his role as one of the organizers of a demonstration due to take place on 10 February 2005 in protest against the human rights implications of changes to the Nepalese Government that occurred on 1 February 2005.

363. On 15 February 2005, the Special Representative sent a letter of allegation concerning **Sukharam Maharjan**, Vice President of the Kirtipur Chapter of the Human Rights Organisation of Nepal (HURON), a non-governmental organisation that works for democratic reform and the protection of human rights and civil liberties, having more than 3000 active members and around 25000 individual members across the country. HURON was the subject of an urgent appeal sent by the Special Representative, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture on 18 December 2003, a letter of allegation sent by the Special Representative and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 24 January 2005 and a letter of allegation sent by the Special Representative, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 26 January 2005. According to the information received, on 8 February 2005 at 10 p.m., five persons arrived at Mr. Maharjan's residence in Kirtipur municipality ward no. 6, Kathmandu district. Reportedly, three of these persons identified themselves as security personnel and came inside the house, and the two other persons were standing outside. Allegedly, they asked Mr. Maharjan to identify himself and took him away. Our information indicates that they did not inform him or his family on the reasons for the arrest. It is reported that he was released at his home on 9 February 2005 at 7.15 p.m. Concern is expressed that the reported arrest of Sukharam Maharjan may represent an

attempt to prevent his human rights defence activities and in particular his activities to assist families of "disappeared" people in Kirtipur area, at the time of the "disappearance" and release.

364. On 17 February 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding the following persons, Mr. **Bal Krishna** Poudel, District Secretary of HURON (Human Rights Organization of Nepal), arrested on 1 February 2005, detained at APF Battalion Duwakot in Bhaktapur, Mr. **Nanda Bhandari**, Advocate of CVICT (Centre for Victims of Torture), arrested on 1 February 2005, detained at Birendranagar Jail, Mr. **Lok Prasad Pant**, Chairperson of Civil Society Network, arrested on 1 February 2005, detained at Birendranagar Jail, Mr. **Bam Dev Adhikari**, Vice-chairperson of SOPHRE (Society for Protection of Human Rights and Rural Environment), arrested on 4 February 2004, detained at Lamjung Jail. These arrests followed the actions taken on 1 February 2005 by King Gyanendra of Nepal to dissolve the constitutional Government of Prime Minister Sher Bahadur Deuba and to assume direct power, proclaiming a nation-wide state of emergency and suspending constitutional guarantees and civil and political liberties. It is also reported that members of the cabinet have been put under house arrest and troops deployed around the homes of leaders of political parties, that fundamental rights provisions contained in the Constitution of Nepal have been suspended, including those enshrining the freedoms of opinion, expression, association and assembly. This wave of arrests has allegedly spread from top political leadership to upper and middle-level cadres and student leaders who have been taken into custody at the Armed Police Force Headquarters in Kathmandu. Human Rights defenders and potential critics of the new regime are also under threat and have, reportedly, either been arrested or gone into hiding to avoid arrest.

365. On 17 February 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning the following persons: Mr. **Gira Prasad Koirala**, Founder of NC (Nepali Congress) and Former Prime Minister arrested on 1 February 2005, detained under house arrest; Mr. **Madhav Kumar Nepal**, General Secretary/Formal Deputy Prime Minister arrested on 1 February 2005, detained under house arrest; Mr. **Amik Sherchan**, Chairperson of PFN (People's Front Nepal), arrested on 1 February 2005, detained under house arrest; Mr. **Lila Mani Pokhrel**, Vice-chairperson of PFN, arrested on 1 February 2005, detained under house arrest; Mr. **Amrit Kumar Bohara**, Standing Committee Member/Formal Minister, arrested on 1 February 2005, detained under house arrest; Mr. **Bam Dev Gautam**, Standing Committee Member/Formal Deputy Prime Minister arrested on 1 February 2005, detained at APF Training Centre, Kakani, Nuwakot; Mr. **Asta Laxmi Shakya**, Central Committee Member/Formal State-Minister, arrested on 1 February 2005, detained under house arrest; Mr. **Jagdish Sah** former MP, member of CPN-UML (Communist Party of Nepal-Unified Marxist Leninist), arrested on 1 February 2005, detained in Rajbiraj Jail, Saptari; Mr. **Binod Dhakal**, District Committee Member, of CPN (UML), arrested on 1 February 2005, detained at Biratnagar Jail; Mr. **Devi Gyawali**, CPN (UML), District Committee Member/Formal Mayor arrested on 1 February 2005, detained at Bharatpur Jail; Mr. **Ram Chandra Poudel**, Central Committee Member/Formal Minister and Speaker of HoR (House of Representatives), arrested on 1 February 2005, detained at Bharatpur Jail; Mr. **Narahari Acharya**, Central Committee Member/Formal Minister arrested on 1 February 2005, detained at APF Training Centre, Kakani,

Nuwakot; Mr. **Laxman Prasad Ghimire**, Central Committee Member arrested on 1 February 2005 detained at APF Training Centre, Kakani, Nuwakot; Mr. **Chakra P Bastona**, Central Committee Member/Former Minister, arrested on 1 February 2005, detained at Chandragadhi Jail; Mr. **Amod P Upadhyaya**, Central Committee Member/Former Minister, arrested on 1 February 2005, detained at Biratnagar Jail; Mr. **Tarini Datta Chataut**, Former Minister, arrested on 1 February 2005, detained at Mahendranagar Jail; Mr. **Gopa Rai**, Former MP arrested on 1 February 2005, detained at APF Training Centre, Kakani, Nuwakot; Mr. **Surendra P Chaudhari**, former MP, arrested on 1 February 2005, detained at Birgunj Jail; 19. Mr. **Lekhnath Neupane**, District President, arrested on 1 February 2005, detained at APF Battalion, Duwakot, Bhaktapur; 20. Mr. **Shiv Kumar Basnet**, former MP, arrested on 1 February 2005, detained at APF Training Centre, Kakani, Nuwakot; 21. Mr. **Ram Nath Adhikari**, former MP, arrested on 1 February 2005, detained at APF Training Centre, Kakani, Nuwakot; 22. Mr. **Madhu Acharya**, District President, arrested on 1 February 2005, detained at APF Training Centre, Kakani, Nuwakot; 23. Mr. **Guru Raj Ghimire**, Exchairperson, arrested on 1 February 2005, detained at Biratnagar Jail; 24. Mr. **Kundan Raj Kafle**, President of FSU (Free Students Union), Pashupati Multiple Campus, arrested on 1 February 2005, detained APF Training Centre, Kakani, Nuwakot; 25. Mr. **Sagar Thapa**, President of FSU, Mahendra Morang Campus, arrested on 1 February 2005, detained at Biratnagar Jail; 26. Mr. **Nilambar Acharya**, Former Minister and Ambassador, arrested on 1 February 2005, detained at APF Battalion, Duwakot, Bhaktapur; 27. Mr. **Purna Bahadur Khadka**, Former Minister, arrested on 1 February 2005, detained under house arrest; 28. Mr. **Haribol Bhattarai**, Central Committee Member, arrested on 1 February 2005, detained at APF Training Centre, Kakani, Nuwakot; 29. Mr. **Parul Chhetri**, District level activist, arrested on 1 February 2005, detained at Biratnagar Jail; 30. Mr. **Nawaraj Koirala**, Central Committee Member, arrested on 1 February 2005, detained at Birendranagar Jail; 31. Mr. **Ramakant Sapkota**, Zonal Committee Member, arrested on 1 February 2005, detained at Biratnagar Jail; 32. Mr. **Anis Ansari**, Former MP, arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 33. Mr. **Arjun Sah**, District President, arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 34. Mr. **Bindeshwor Yadav**, Activist, arrested on 1 February 2005, detained Rajbiraj Jail, Saptari; 35. Mr. **Ram Datta Sah**, Activist, arrested on 1 February 2005, detained Rajbiraj Jail, Saptari; 36. Mr. **Jagannath Das**, Activist/Mayor, arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 37. Mr. **Umesh Misra**, Activist, arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 38. Mr. **Kapileshwor Sah**, Activist, arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 39. Mr. **Ram Chandra Yadav**, Secretary of FSU, Mahendra Bindeshwori Multiple Campus, arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 40. Mr. **Mahesh Yadav**, Activist of NSP (A.) (Nepal Sadhvawana Party-Anandidevi) arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 41. Mr. **Dinesh Yadav**, Student Leader of NSP(A.) arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 42. Mr. **Diwakar Devkota**, District Secretary CPN (UML) arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 43. Mr. **Ram Dev Sah**, Activist of NC, arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 44. Mr. **Ersad Ansari**, Central Committee Member of NSU, arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 45. Mr. **Anil Dev**, District Chairperson of NTD, arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 46. Mr. **Sushil Sewa**, District Secretary NC, arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 47. Mr. **Pawan Singh**, Activist of NC arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 48. Mr. **Deepak Sah**, Activist of NC arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 49. Mr. **Kisho Kumar Yadaz**, Activist of NSP (A.) arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 50. Mr. **Basang Sah**, Activist of

NSP (A.) arrested on 1 February 2005, detained at Rajbiraj Jail, Saptari; 51. Mr. **Ashok Koiral**, District President of NC arrested on 1 February 2005, detained at Biratnagar Jail; 52. Mr. **Deelip Sapkota**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 53. Mr. **Gopal Raj Rajbhandari**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 54. Mr. **Geeta Pathak**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 55. Mr. **Amrit Aryal**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 56. Mr. **Suvas Poudel**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 57. Mr. **Puskar Acharya**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 58. Mr. **Ram Naresh Yadav**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 59. Mr. **Laxmi Basnet**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 60. Mr. **Shiv Narayan Sinha**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 61. Mr. **Saroj Acharya**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 62. Mr. **Rukmini Koirala**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 63. Mr. **Kalyan KC**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 64. Mr. **Keshav Basnet**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 65. Mr. **Man Bahadur Rai**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 66. Mr. **Shyam Pokhrel**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 67. Mr. **Damodar Koirala**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 68. Mr. **Mana Lal Yadav**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 69. Mr. **Basu Koirala**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 70. Mr. **Ram Kumar Khatri**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 71. Mr. **Babu Ram Koirala**, Activist of NC arrested on 1 February 2005, detained at Biratnagar Jail; 72. Mr. **Ganga Datta Joshi**, Former MP of NC arrested on 1 February 2005, detained at Biratnagar Jail; 73. Mr. Yagya Raj Joshi, Activist of NC arrested on 1 February 2005, detained at Mahendranagar Jail; 74. Mr. **Prem Bista**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 75. Mr. **Bhairav Singh Air**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 76. Mr. **Narayan Datta Pant**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 77. Mr. **Govinda Bista**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 78. Mr. **Riti Raj Chataut**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 79. Mr. **Madan Chand**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 80. Mr. **Bhoj Bahadur Rawal**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 81. Mr. **Dharmananda Bhatta**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 82. Mr. **Ambadatta Joshi**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 83. Mr. **Padam Pandit**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 84. Mr. **Tara Datta Awasti**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 85. Mr. **Karma Bahadur Shah**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 86. Mr. **Bishnu Misra**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 87. Mr. **Nainsingh Gurung**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 88. Mr. **Dhani Ram Bohora**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 89. Mr. **Ram Singh Air**, Political Activist arrested on 1 February 2005, detained at Mahendranagar Jail; 90. Mr. **Trilok Pratap Rana**, ExDistrict President of NC arrested on 1 February 2005, detained at APF Training Centre, Kakani, Nuwakot; 91. Mr. **Gopal Raj Pahari**, Central Committee Member of NC (D) (Nepali Congress-Democratic) arrested on 1 February 2005, detained at APF Training Centre, Kakani, Nuwakot; 92. Mr. **Tirtha Ram**

**Dangol**, District President of NC arrested on 1 February 2005, detained at APF Training Centre, Kakani, Nuwakot. These arrests follow the actions taken on 1 February 2005 by King Gyanendra of Nepal to dissolve the constitutional Government of Prime Minister Sher Bahadur Deuba and to assume direct power, proclaiming a nation-wide state of emergency and suspending constitutional guarantees and civil and political liberties. It is also reported that members of the cabinet have been put under house arrest and troops deployed around the homes of leaders of political parties, that fundamental rights provisions contained in the Constitution of Nepal have been suspended, including those enshrining the freedoms of opinion, expression, association and assembly. This wave of arrests has allegedly spread from top political leadership to upper and middle-level cadres and student leaders who have been taken into custody at the Armed Police Force Headquarters in Kathmandu. Human Rights defenders and potential critics of the new regime are also under threat and have, reportedly, either been arrested or gone into hiding to avoid arrest.

366. On 18 February 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the sale of children, child prostitution and child pornography and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning Mr. **Gauri Pradhan**, advocate for children's rights, and founding president of Child Workers in Nepal Concern Centre (CWIN), a leading child rights organisation in Nepal focusing on issues including child labour, trafficking, and the impact of conflict on children. According to the information received, Mr. Pradhan was arrested by police at Kathmandu Airport on 17 February 2005 following his return from Geneva, where he attended a working group meeting of the Committee on the Rights of the Child. It is reported that Mr. Pradhna had expressed the fear that he might be arrested when he returned home to Nepal. The reason for his arrest is not known. He is reportedly being held at the police headquarters in Naxal, Kathmandu. This arrest follows the actions taken on 1 February 2005 by King Gyanendra of Nepal to dissolve the constitutional Government of Prime Minister Sher Bahadur Deuba and to assume direct power, proclaiming a nation-wide state of emergency and suspending constitutional guarantees and civil and political liberties. It is also reported that members of the cabinet have been put under house arrest and troops deployed around the homes of leaders of political parties, that fundamental rights provisions contained in the Constitution of Nepal have been suspended, including those enshrining the freedoms of opinion, expression, association and assembly. This wave of arrests has allegedly spread from top political leadership to upper and middle-level cadres and student leaders who have been taken into custody at the Armed Police Force Headquarters in Kathmandu. Human Rights defenders and potential critics of the new regime are also under threat and have, reportedly, either been arrested or gone into hiding to avoid arrest.

367. On 22 February 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning **Narayan Adhikari**, Correspondent of the Rastriy Samachar Samitee (RSS) (National News Agency) and **Basant Parajuli**, correspondent of Gorakhapatra Daily. According to the information received, on 13 February 2005, security forces arrested these two persons at separate places in Chitwan district. Allegedly, the local administration stated that they were arrested for necessary interrogation. Our information indicates that they are detained at an unknown location. These arrests follow the actions taken on 1 February 2005 by King Gyanendra of Nepal to dissolve the constitutional Government of Prime Minister Sher Bahadur

Deuba and to assume direct power, proclaiming a nation-wide state of emergency and suspending constitutional guarantees and civil and political liberties. It is also reported that members of the cabinet have been put under house arrest and troops deployed around the homes of leaders of political parties, that fundamental rights provisions contained in the Constitution of Nepal have been suspended, including those enshrining the freedoms of opinion, expression, association and assembly. This wave of arrests has allegedly spread from top political leadership to upper and middle-level cadres and student leaders who have been taken into custody at the Armed Police Force Headquarters in Kathmandu. Human Rights defenders and potential critics of the new regime are also under threat and have, reportedly, either been arrested or gone into hiding to avoid arrest.

368. On 7 March 2005, the Special Representative, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation concerning following allegations they have received:

1. The reported arrests by security forces, on 10 February 2005, of members of the Human Rights and Peace Society (HURPES): **Suresh Chandra Pokhrel (Vice-president), Bal Ram Aryal (Treasurer), Jay Ram Basnet, Laxmi Pariyar, Suman Shrestha, Jibe Lal Kharel, Narayan Datta Kandel, Laxman Acharay, Bal Ram Neupane, Hira Lala Acharya and Basu Devkota**, General Secretary of the Human Development and Peace Campaign (HUDEP). These persons were allegedly arrested at Putalisadak, Kathmandu, following their peaceful protest against the human rights implications of changes to the Nepalese Government on 1 February 2005. Information indicates that they were detained at Ward Police Office, Baneshwor and released on 14 February 2005.

2. The alleged arrests of the following persons, **Rajesh Sharma**, District Chairperson of the Human Rights Education Radio Listeners Club (HRERLC), arrested on 9 February 2005 at Pokhara Municipality, Kaski, detained at Bijaypur Barrack, Pokhara, and released on 10 February 2005, **Arjun Upreti**, Correspondent of Saptakoshi FM, arrested on 1 February 2005 at Irahari, Sunsari, detained at the Police Office, Itahara, and released after two hours.

Deep concern is expressed that the reported arrests and detentions of the above-mentioned human rights defenders may represent attempts to prevent their human rights activities. This concern is further heightened in light of reports that the number of human rights defenders detained in Nepal since 1 February 2005 continues to increase.

369. On 19 April 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding Mr. **Shiva Kumar Pradhan**, a human rights defender and the Secretary General of the People's Forum for Human Rights and Development (PFHRD), a Nepal-based Bhutanese non-Governmental organisation. Mr. Pradhan was already subject to an urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders on 22 April 2004 concerning his arrest on 19 September 2001 and subsequent detention relating to charges with murder. Receipt is acknowledged of the reply of your Excellency's Government dated 8 March 2005. According to information received, on 22 August 2004, the District Court of Chandragari, Jhapa, sentenced Mr. Pradhan to three years imprisonment. Reportedly, the sentence was to be completed on 21 September 2004, and

Mr. Pradhan was released on this day. On 10 November 2004, Mr. Pradhan allegedly applied to the Governmental Refugee Coordination Unit (RCU) for a travel document to attend the World Forum for Democracy in Asia (WFDA) conference in Taiwan from 14 to 17 December 2004, organised by the Taiwan Forum for Democracy. Reportedly, he was denied such a travel document. Our information further indicates that, in early March 2005, Mr. Pradhan applied to the RCU for a travel document to attend the 61st session of the United Nations Commission on Human Rights (UNCHR) in Geneva, Switzerland. Allegedly, he included in his application a recommendation letter from the Government appointed supervisor at the refugee camp Beldangi-II extension, as he had been requested to. He was reportedly denied the travel document on grounds of long absence from the camp. Concern was expressed that the alleged denials of travel documents to Mr. Pradhan may represent attempts to prevent his human rights defence activity.

370. On 15 June 2005, the the Special Representative, jointly with the Special Rapporteur on promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation concerning approximately **100 journalists, members of the Federation of Nepalese Journalists (FNJ)**, including **Bishnu Nisthuri** (who was the subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 7 February 2005) and **Mahendra Bista**, FNJ President and General Secretary respectively, as well as human rights activist, **Bashu Devkota**. According to information received, on 13 June 2005 close to a restricted area of the royal palace in Kathmandu, around 100 journalists were arrested by police forces. More than 40 journalists are still being detained at different police station in Kathmandu, including the Janasewa, Dingha Durbar and Kamalpokhari police stations. The journalists were carrying out a peaceful demonstration protesting against police atrocities and calling upon the King to immediately lift the media restrictions imposed in Nepal four months ago. It is reported that many of the protestors were manhandled and injured by the police while being arrested and taken off in buses. Similar demonstrations were carried out in the neighbouring district of Kavre. The demonstrations were also stopped by the police and 52 journalists, lawyers and other citizens were arrested; they were released that same afternoon.

371. On 8 August 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning Mr. **Gagan Kumar Thapa**, a student leader and former General Secretary of the Nepal Students' Union (NSU), who was arrested by officers of the Anamnagar Ward Police Office on 27 July 2005. Along with two friends, Thapa was reportedly on his way to visit six other NSU student leaders currently being detained at the Ward Police Office in the Singh Durbar district. After his arrest, the authorities reportedly accused Thapa of protesting against the monarchy during a demonstration in Katmandu on 24 July 2005. A special court first gave permission to detain him for seven days and, on 3 August 2005, it extended the police remand for five more days. Since April 2005, Thapa has been arrested three times. In May 2005, the Supreme Court intervened twice in order to release him. He was also the subject, among other persons, of a joint urgent appeal sent to your Excellency's Government on 11 February 2005 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

372. On 8 August 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning **Ratna Shrestha**, a 53-year old teacher and Western Regional Coordinator and Central Member of Human Rights Organisation of Nepal (HURON), an organisation that works in response to the emerging and diverse human rights issues and the strengthening of the democratic process in Nepal. According to the information received, on 27 July 2005, at 11:00 a.m., Ratna Shrestha allegedly received a call from the Zonal Administration Office in Baglung, Dhaulagiri Zone, to report to them at 12:00 noon for questioning. It is reported that during this questioning by two officials (the names of whom are known to the Special Representative) Ratna Shrestha was asked questions relating to her human rights activities. She was reportedly questioned over allegations such as money earned from HURON, donations given to the Maoists from businessmen, her involvement in incidents of Maoist attacks, information being passed to the Maoists on security issues of the security units, her meeting with the Maoists area commanders and the levels of Maoists leaders she has been meeting. Ratna Shrestha has reportedly denied all of these allegations with the exception of the meeting with Maoist leaders. Ratna Shrestha has been actively working on human rights issues on the ground and at the central level, especially on the disappearances cases in Nepal. She was reportedly involved in the release of the abducted people by the Maoists and had at that time met with Maoist leaders. Ratna Shrestha was reportedly released after 4 hours but asked to report back whenever called on to do so. Concern was expressed that this incident is an attempt to intimidate Ratna Shrestha and prevent her from carrying out her human rights work.

373. On 6 September 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation concerning Dr. **Devendra Raj Pandey**, Chairman of the Rural Self-Reliance Development Centre (RSDC) and former Finance Minister, Mrs. **Suprabha Ghimire**, teacher, social worker, and former Vice President of the Nepal University Teachers Association, Mr. **Padmaratna Tuladhar**, Chairman of the Forum for the Protection of Human Rights (FOPHUR) and former mediator in the talks between Government and Maoists, Mr. **Charan Prasain**, Chairperson of the Human Rights Organisation of Nepal (HURON), Mr. **Krishna Pahadi**, former President of the Human Rights and Peace Society (HURPES) and former Chairman of the Nepali section of Amnesty International (subject of an urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 11th February 2005), Mr. **Kanak Mani Dixit**, journalist at the Himal South Asian and Publisher of the Nepali-fortnightly Himal Magazine (subject of an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 10th March 2005), Mr. **Shyam Shrestha**, Editor of the monthly Mulyankan, Mr. **Subhas Pokhrel**, political activist, Mr. **Malla K. Sundar**, Founder and Advisor at HURON, Mr. **Sachin Ghimire**, human rights project Manager at the Nepal Bar Association (NBA), Mr. **Padmalal Bishwakarma**, President of the Society for the Liberation of Oppressed Dalit Castes (SLOC) in Nepal, Member Secretary of the National Coalition Against Racial Discrimination (NCARD) and Executive Member of FOPHUR, Mr. **Ananda Dev Bhatta**, senior Academician and President of the Progressive Writers' Association, Mr. **Krishna Abiral**, freelance journalist and member of the Federation of Nepalese Journalists (FNJ), Dr. **Aruna Upreti**, women's health and reproductive rights activist, and member of the Physicians for Social Responsibilities Nepal (PSRN), Mr. **Ninu Chapagain**,

President of the Progressive Cultural Society, Mr. **Badri Khanal**, Executive Director of the Nepal Red Cross, Dr. **Bharat Pradhan**, Director of Kathmandu Model Hospital, and member of PSRN, Mr. **Tara Lamichhane**, President of the Nepal Beekeeping Farmers Association (NBFA), Mr. **Krishna Bhattarai**, district President of the Teachers' Union, Mr. **Sanjaya Santoshi Rai**, Vice-President of FNJ, Mr. Purna Basnet, executive member of FNJ, Mr. **Ashok Karki**, Mr. **Manish Sijapati**, Mr. **Arjun Adhikari**, Mr. **Bikas Khaniya** and Mr. **Narayan Basnet**, all members of civil society organisations. According to information received, on 25 July 2005, the above-mentioned human rights defenders were arrested whilst participating in a peaceful rally at Bhotahiti, Kathmandu that was organized by the Citizens' Movement for Democracy and Peace Coordination Committee to demand the restoration of democracy and to protest against the King Gyandendra and the Royal Nepalese Army's seizure of control of all level of powers, the declaration of a state of emergency and the suspension of fundamental constitutional rights. The rally started at 16:00 at Bhotahiti and was to pass through major parts of the city. The police allegedly refused the rally participants entry into Ratna Park, in which demonstrations are prohibited. It is reported that police charged the crowd with hard bamboo sticks. Mr. Sachin Ghimire allegedly sustained head injuries during the police intervention. According to the information received, on the 26th July 2005, at 9:00, all 26 human rights defenders were released without charge.

374. On 30 September 2005, the Special Representative sent a communication concerning a draft text of the proposed code, entitled "**Points to be included in the NGO Code of Conduct**". Deep concern was expressed that the adoption of many of the provisions included within the draft text would lead to violations of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms – otherwise known as the Declaration on human rights defenders – as well as other international human rights standards. Provisions exerting Governmental control over NGO access to funding from international donors, restricting the political affiliations or additional employment choices of NGO staff, authorizing the issuance of directives to NGOs or the exercise of supervision over NGOs by the Social Welfare Council, restricting the locations in which NGOs can work, imposing collective responsibility of officials and staff for activities conducted by an NGO, or stipulating that NGOs should not endanger social harmony are among some of those that are of particular concern to me. Codes of conduct have been adopted in many countries. They are developed by the NGO community itself and the commitments they promulgate are entered into voluntarily by NGOs. They are not introduced by legislation and they are not subject to Governmental oversight as they may infringe upon the independence of NGOs especially those working in the area of human rights. In addition to the regulating effect of taxation legislation and related auditing requirements, this process of voluntary self-regulation has proved extremely effective in attaining the important goals of strengthening the transparency, efficiency and accountability of NGOs. The Special Representative stated that while she had not been able to examine Nepali legislation with respect to the regulation of human rights organizations operating in Nepal, it was her understanding from reports and statements by civil society in Nepal that existing legislation does in fact adequately regulate the functioning of NGOs. She urged the Neplase Government to reconsider introduction of this code of conduct which if adopted and implemented would violate Nepal's international human rights obligations.

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

#### **Communications received**

376. On 27 January 2005 the Government of the Kingdom of Nepal replied to the communication of 24 January 2005 and informed the Special Representative that the communication was sent to Kathmandu. They would provide her with any information received in this regard.

377. On 28 January 2005, the Government of the Kingdom of Nepal replied to the communication of 26 January 2005 and informed the Special Representative that the communication was sent to Kathmandu. They would provide him with any information received in this regard. On 9 June 2005 the Government provided information on some of the individuals concerned in the communication of 26 January 2005. The Government stated that on 21 December 2004, at Pakalihawa VDC, the police provided **Kaialsh Thakur**, **Mr. Dhana Jaisi Sharma** and **Mr. Narsarulla Ansari** with security when a mob became aggressive with him and some other human rights defenders. They were taken to the District police Office for protection. With regards to **Mr. Naman Kumar Shahi**, and **Mr. Bhupendra Shahi**, the Government stated that on 2 January 2005 at the scene of crime concerning the death of Dil Bahadur Rana, they were both pushed by police officers who were attempting to secure the area and control the crowd gathered at the scene. The Government stated that the police later apologized.

378. On 7 March 2005 the Government of Nepal informed the Special Representative that Mr. **Sindhu Nath Pyakurel** and Mr. **Bishnu Nisthuri** were released on 14 and 25 February 2005 respectively. Mr. Nisthuri had been arrested in accordance with the Security Act of 1990.

379. On 28 April 2005 the Government of Nepal replied to the communication of 17 February 2005. The Government stated that Mr. Bal Kirshna Poudel, his real name found to be Bal

Chandra Poudel had been under detention in Bhaktapur prison since 28 February 2005. Mr. Nanda Bhandari, real name found to be Nanda B.C., who was arrested on 1 February 2005 was released on 1 March 2005. Lok Prasad Pant has been detained under TADO since 14 March 2005 in the Birendra Nagar prison in Surkhet. Mr. Bam Dev Adhikari, real name found to be Basudev Adhikari who was detained on 4 February 2005 was released on 10 April 2005.

380. On 7 March 2005 the Government sent a reply to the Special Representative concerning the communication of 11 February 2005. The Government stated that Mr. Chand and Mr. Bijukche were free from preventive restrictions. **Divakar Devkota** was released on 18 May 2005 after having been held in preventive custody at Shaptari since 1 February 2005. **Gagan Thapa** who was arrested on 1 February 2005 by the security forces, was held under preventive custody at Lalitpur until he was released on 25 May 2005 on the orders of the Supreme Court. **Girija Prasad**, who was arrested on 1 February 2005 by the security forces, was held under house arrest and released on 31 March 2005 by the orders of the District Security Committee. He had been arrested, when with another 300 protestors, he violated the order of the District Administration Office banning political activities within the ring road at Kathmandu District. The Government has no information concerning **Karan Bahadur Shah. Kundan Raj Kafle**, who was arrested on 1 February 2005 by the security forces, was held under preventive custody at Kathmandu until he was released on 8 April 2005 on the orders of the Supreme Court. **Madhav Nepal**, who was arrested on 1 February 2005, was held under house arrest in Kathmandu and released on 30 April 2005 by the orders of the District Security Committee. **Narayan Dutta Panta**, who was arrested on 1 February 2005, was held in preventive custody in Kanchapur and was released on 1 April 2005. **Narhari Acharya**, who was arrested on 1 February 2005, was held in preventive custody. **Bamdev Gautam**, who was arrested on 1 February 2005, was held in preventive custody at Kathmandu until he was released on 18 May 2005 on the orders of the Supreme Court. **Om Aryal**, who was arrested on 1 February 2005, was held in preventive custody at Kathmandu until he was released on 11 March 2005 on the orders of the Supreme Court. **Pradeep Nepal**, who was arrested on 1 February 2005, was held in preventive custody at Kathmandu until he was released on 25 February 2005 on the orders of the Supreme Court. **Prakash Sharan Mahat**, who was arrested on 1 February 2005, was held in preventive custody at Kathmandu until he was released on 9 March 2005 on the orders of the Supreme Court. **Rajendra Rai**, who was arrested on 1 February 2005, was held in preventive custody at Kathmandu until he was released on 20 May 2005 on the orders of the Supreme Court. **Ram Kumar Chaudhari**, who was arrested on 1 February 2005, was held in preventive custody in Shaptari, until released on 16 May 2005 by the orders of the District Security Committee. **Ram Singh Aeir** and **Rudra Raj Chattaut** were both arrested on 1 February 2005 in Kanchapur until released on 13 February and 30 April 2005 respectively. **Sher Bahadur Deuba**, who was arrested on 1 February 2005, was held under house arrest in Kathmandu, until released on 11 March 2005 by the orders of the District Security Committee. **Rupnarayan Shrestha**, who was arrested on 1 February 2005, was held in preventive custody at Kathmandu until he was released on 16 May 2005 on the orders of the Supreme Court. **Tarka Raj Bhatta**, who was arrested on 1 February 2005, was held in preventive custody at Kanchapur until he was released on 1 April 2005. **Kundan Raj Kafle**, the chairman of the student union, was injured as a result of having been hit by On 28 April 2005 and 9 June the Government replied to the communication of 17 February 2005. The Government stated that Mr. **Bal Kirshna Poudel (Chandra)** had been under detention in Bhaktapur prison since 28 February 2005. The

Government then provided information that Mr. **Bal Krishna Poudel** had been released on 11 March 2005. Mr. **Nanda Bhandari (Nanda B.C.)** was arrested on 1 February 2005 and was released on 1 March 2005. Mr. **Lok Prasad Nagar** was arrested on 1 February 2005 under TADO in the Birendra Nagar prison in Surkhet. Mr. **Bam Dev Adhikari** (Basudev Adhikari) was, at the time this reply was sent, detained since 4 February 2005 at Lamjung and was released on 11 March 2005.

381. On 9 June 2005 the Government replied to the communication of 22 February 2005 and informed the Special Representative that **Basant Parajuli** was arrested on 13 February 2005 and detained at Chitwan until released on 1 March 2005. On 9 June 2005 the Government replied to the communication of 25 February 2005. The Government informed the Government that Mr. **Amrit Bohara**, who was arrested on 1 February 2005, was held in preventive custody in Kathamandu until released on 30 April 2005. Mr. **Bijaya Kumar Rai**, who was arrested on 1 February 2005, was held in preventive custody on 3 April 2005 in Kathamandu until released on 2 May 2005 on the orders of the Supreme Court. Moreover, the Government informed the Special Rapporteur that **Anandi Devi Singh** was arrested on 1 February 2005 and kept under house arrest until released on 9 February 2005. **Ajaya Aryal**, was arrested in February and held under preventive custody in Kathamndau until released on 30 April 2005. **Amrit Kumar Bohara**, was arrested in February and held under preventive custody in Kathamndau until released on 30 April 2005. **Anis Ansari**, was arrested in February and held under preventive custody in Shaptari until released on 16 May 2005. **Babu Ram Chaudhari**, was arrested in February and held under preventive custody at Rupandhehi until released on 11 March 2005. **Bidur Bikram Khadka**, was arrested on 1 February 2005 and held in preventive custody in Kathamandu, until released by the order of the district security committee on 1 March 2005. **Bikash Lamsal**, was arrested in February 2005 and held in preventive custody in Parbat until released on 1 April 2005. **Chaturbhuj Shahi**, was arrested in February 2005 and held in preventive custody in Surkhet until released on 11 March 2005. **Chuenial Shretha**, was arrested in February 2005 and held in preventive custody in Kathamndu until released by the order of the Supreme Court on 11 March 2005. **Deppak Rai**, was arrested in February 2005 and held in preventive custody in Kathamandu until released by the order of the District Security Committee on 11 March 2005. **Dilli Bohara**, was arrested in February 2005 and held in preventive custody in Kathamandu until released on 11 March 2005. **Indra Lal Sapkota**, was arrested in February 2005 and held in preventive custody in Baglung until released on 1 April 2005. **Jamindra Man Ghale**, was arrested in February 2005 and held in preventive custody in Lamjung until released on 1 April 2005. **Jyoti Shama**, was arrested in February 2005 and held in preventive custody in Kathamandu until released on 11 March 2005. **Kedar Kumar Adhikari**, was arrested in February 2005 and held in preventive custody in Lalitpur until released on 1 April 2005. **Lawos Rai**, was arrested in February 2005 and held in preventive custody in Kathamandu until released on 1 April 2005. **Lila Giri**, was arrested in February 2005 and held in preventive custody in Rupandhehi until released on 11 May 2005. **Lochan K.C.** was arrested in February 2005 and held in preventive custody in Kathamndu until released by the order of the Supreme Court on 1 April 2005. **Lok Raj Bhatta**, was arrested in February 2005 and held in preventive custody in Dadeldhura until released on 26 May 2005. **Mahendra Pandey**, was arrested in February 2005 and held in preventive custody in Mahargung. **Mahesh Basnet**, was arrested in February 2005 and held in preventive custody in Bhaktapur until released by the order of the Supreme Court on 8 April 2005. **Manoj K. Myangbo**, was arrested in February 2005 and held in preventive custody in Sunsari until released on 11 May 2005. **Murari Subedi**, was arrested in February

2005 and held in preventive custody in Sunsari until released on 11 May 2005. **Puspanjali Upadhyaya**, was arrested in February 2005 and held in preventive custody in Rupandhehi until released on 10 February 2005. **Raghubar Bhatta**, was arrested in February 2005 and held in preventive custody in Dadeldhura until released on 26 May 2005. **Raj Kumar Raj, Rajan Rai** was arrested in February 2005 and held in preventive custody in Kathmandu until released on 28 April 2005. **Rajendra Pandey**, was arrested in February 2005 and held in preventive custody in Maharagung. **Ram Bahadur Basnet**, was arrested in February 2005 and held in preventive custody in Sunsari until released on 11 May 2005. **Shushiri Koirala**, was arrested in February 2005 and held in preventive custody in Napalgung until released on 26 May 2005. **Umesh Mishra**, was arrested in February 2005 and held in preventive custody in Shaptari until released on 16 May 2005. **Khagendra Bhattarai**, was arrested in February 2005 and held in preventive custody in Kathmandu until released on 26 February 2005. **Krishna Prasad Dahal**, was arrested in February 2005 and held in preventive custody in Kathmandu until released on 25 February 2005.

382. On 25 October 2005 the Government informed the Special Representative that **Basu Devkota**, who had been arrested as per the Security Act of 1990, was released on 14 February 2005.

383. On 7 March 2005 the Government replied to the communication of 11 February 2005 concerning **Lokendra Bahadur Chand**, Mr. **Narayanman Bijukche**. The Government stated that Mr. Chand and Mr. Bijukche were free from preventive restrictions. **Divakar Devkota** was released on 18 May 2005 after having been held in preventive custody at Shaptari since 1 February 2005. **Gagan Thapa** who was arrested on 1 February 2005 by the security forces, was held under preventive custody at Lalitpur until he was released on 25 May 2005 on the orders of the Supreme Court. **Girija Prasad**, who was arrested on 1 February 2005 by the security forces, was held under house arrest and released on 31 March 2005 by the orders of the District Security Committee. He had been arrested, when with another 300 protestors, he violated the order of the District Administration Office banning political activities within the ring road at Kathmandu District. The Government has no information concerning **Karan Bahadur Shah. Kundan Raj Kafle**, who was arrested on 1 February 2005 by the security forces, was held under preventive custody at Kathmandu until he was released on 8 April 2005 on the orders of the Supreme Court. **Madhav Nepal**, who was arrested on 1 February 2005, was held under house arrest in Kathmandu and released on 30 April 2005 by the orders of the District Security Committee. **Narayan Dutta Panta**, who was arrested on 1 February 2005, was held in preventive custody in Kanchapur and was released on 1 April 2005. **Narhari Acharya**, who was arrested on 1 February 2005, was held in preventive custody. **Bamdev Gautam**, who was arrested on 1 February 2005, was held in preventive custody at Kathmandu until he was released on 18 May 2005 on the orders of the Supreme Court. **Om Aryal**, who was arrested on 1 February 2005, was held in preventive custody at Kathmandu until he was released on 11 March 2005 on the orders of the Supreme Court. **Pradeep Nepal**, who was arrested on 1 February 2005, was held in preventive custody at Kathmandu until he was released on 25 February 2005 on the orders of the Supreme Court. **Prakash Sharan Mahat**, who was arrested on 1 February 2005, was held in preventive custody at Kathmandu until he was released on 9 March 2005 on the orders of the Supreme Court. **Rajendra Rai**, who was arrested on 1 February 2005, was held in preventive custody at Kathmandu until he was released on 20 May 2005 on the orders of the Supreme Court. **Ram Kumar Chaudhari**, who was arrested on 1 February 2005, was held in

preventive custody in Shaptari, until released on 16 May 2005 by the orders of the District Security Committee. **Ram Singh Aeir** and **Rudra Raj Chattaut** were both arrested on 1 February 2005 in Kanchanpur until released on 13 February and 30 April 2005 respectively. **Sher Bahadur Deuba**, who was arrested on 1 February 2005, was held under house arrest in Kathmandu, until released on 11 March 2005 by the orders of the District Security Committee. **Rupnarayan Shrestha**, who was arrested on 1 February 2005, was held in preventive custody at Kathmandu until he was released on 16 May 2005 on the orders of the Supreme Court. **Tarka Raj Bhatta**, who was arrested on 1 February 2005, was held in preventive custody at Kanchanpur until he was released on 1 April 2005. **Kundan Raj Kafle**, the chairman of the student union, was injured as a result of having been hit by stones that were thrown by demonstrators at the police.

384. In a letter dated 12 July 2005 the Government responded to the communication of 11 February 2005 concerning Krishna Pahadi. The Government stated that Krishna Pahadi was released from detention on 4 July 2005.

385. In a letter dated 4 October 2005 the Government of the Kingdom of Nepal replied to the communication of 30 September 2005 and stated that the communication had been forwarded to the relevant authorities in Kathmandu.

386. In a letter dated 25 October 2005 the Government of Nepal replied to the communication of 15 June 2005. The Government stated that **Bishnu Nisthuri** was under detention as per Security Act 1990 on 17 February 2005 was released on 12 February 2005. The Government stated that **Bashu Devkota** was under police detention on 11 February 2005 and was released on 14 February 2005. **Mahendra Bista** was released two hours after he was arrested.

387. In a letter dated 16 December 2005 the Government of the Kingdom of Nepal responded to the communication of 2 December 2005. The Mission stated that it had forwarded the communication to the authorities in Kathmandu.

#### **Responses received to communications sent in previous years**

388. In a letter dated 8 March 2005 the Government of the Kingdom of Nepal responded to the communication of sent by the Special Representative 1 October 2003 concerning **Akash Lama**. The Government stated that Akash Lama was not held in custody under any authority under its jurisdiction.

389. In a letter dated 9 March 2005 the Government of the Kingdom of Nepal responded to the communication of sent by the Special Representative 11 October 2004 concerning **Durga Thapa**. The Government stated that Durga Thapa was abducted on 29 July 2004 by Maoist rebels and later released on 16 August 2004.

390. In a letter dated 8 March 2005, the Government of the Kingdom of Nepal responded to the communication of sent by the Special Representative on 4 March 2004 concerning **Bhimisen Kumar Galuam**. The Government stated that Bhimisen Kumar Galuam had informed them that he was living a normal life in Sinamangal, Kathmandu.

391. In a letter dated 8 March 2005, Government of the Kingdom of Nepal the responded to the coummunications sent by the Special Representative on 7 July 2004 and 14 October 2004 concerning **Bimala B.K.**, who was arrested by security forces on 17 February 2004. The Government stated that **Bimala B.K.** was a Maoist militia who was arrested at Palanchowk, Kavre, and is detained at Dillibazar Karagar Shakha.

392. In a letter dated 8 March 2005, Government of the Kingdom of Nepal the responded to the coummunications sent by the Special Representative on 19 January 2004 and 21 September 2004 concerning **Dinesh Raj Prasai**. The Mission stated that it was awaiting a reply from the authorities in Nepal.

393. In a letter dated 8 March 2005, Government of the Kingdom of Nepal the responded to the coummunication sent by the Special Representative on 15 September 2004 concerning **Hira Lai Khadka**. The Government stated that Hira Lai Khadka was being held in preventive detention under TADO.

394. In a letter dated 8 March 2005, Government of the Kingdom of Nepal responded to the communications sent by the Special Representative on 1 October 2003 and 20 February 2004 concerning **Nirmala Bhandari**. The Government stated that Nirmala Bhandari was arrested on 18 February 2004 and released on 8 October 2004.

395. In a letter dated 8 March 2005, Government of the Kingdom of Nepal responded to the communication sent by the Special Representative on 6 October 2003 concerning Ram **Bahadur Limbu**. The Government stated that Ram Bahadur Limbu was arrested on 6 October 2003 and was being held in preventive detention at Morang Jail under TADO.

396. In a letter dated 8 March 2005, Government of the Kingdom of Nepal responded to the communication sent by the Special Representative on 18 December 2003 concerning **Ram Krishna Adhikari**. The Government stated that Ram Krishna Adhikari was arrested on 10 December 2003 and was released immediately after interrogation.

### **Observations**

397. The Special Representative thanks the Government of Nepal for its responses to her communications of 2005 and also its responses to her communications of previous years. However, she remains extremely concerned about the situation of human rights defenders in Nepal and the remarkabl deterioration of the ability of human rights defenders to pursue their legitimate activities in defence of human following the actions taken on 1 February 2005 by King Gyanendra of Nepal to dissolve the constitutional Government of Prime Minister Sher Bahadur Deuba and assume direct power, proclaiming a nation-wide state of emergency and suspending constitutional guarantees and civil and political liberties. The Special Representative notes in particular, the adverse effect which these actions have had on journalists, trade union leaders and human rights defenders, many of whom, have been reportedly arrested and held under preventive detention under the provisions of the “Terrorist and Disruptive Activities (Control and Punishment) Ordinance – 2061”, in force since 12 October 2002, and which according to the information received, authorizes detention without charge or trial from 90 days to one year. According to the information received, a number of individuals have also been detained under the Public Security Act of 1990, which allows for similar periods of preventive

incarcération. Without making any determination about the facts of any of these cases, the Special Representative urges the Government. “to refrain from using counter-terrorism as a pretext to restrict the right to freedom of opinion and expression in ways that are contrary to their obligations under international law”; as enunciated inter alia Human Rights Resolution 2005/38.

## Niger

### Communications envoyées

398. Le 18 mai 2005, la Représentante spéciale du Secrétaire général, conjointement avec la Présidente-Rapporteuse 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, a envoyé un appel urgent concernant **Ilguilas Weila**, Président de Timidria, une organisation non gouvernementale basée au Niger travaillant contre l’esclavage, partenaire de Anti-Slavery International, et **Alassane Biga**, Secrétaire général du bureau de Timidria à Tillabery. Ilguilas Weila serait également membre de la Commission nationale pour les droits de l’homme et les libertés fondamentales et de l’observatoire national pour les élections. Selon les informations reçues, le 28 avril 2005, Ilguilas Weila et Alassane Biga auraient été arrêtés avec quatre de leurs collègues. Ils auraient été conduits à un poste de police de Niamey et accusés de «lever des fonds de façon illégale» via Anti-Slavery International. L’accusation initiale de «propagation de fausses informations concernant l’esclavage» aurait été abandonnée. Selon les sources, Ilguilas Weila et Alassane Biga seraient détenus dans une prison nationale, leurs quatre collègues auraient été libérés le 11 mai 2005. Des craintes ont été exprimées que l’arrestation et les accusations contre les deux hommes ne soient liées à leurs activités en faveur des droits de l’homme au Niger, en particulier à la publication conjointe de Timidria et Anti-Slavery International de la première enquête nationale sur l’esclavage qui aurait aidé à la codification de l’esclavage en tant que crime en droit interne. Ces craintes sont d’autant plus vives que, courant mars 2005, Alassane Biga aurait participé à l’organisation d’une cérémonie publique pour la libération de 7 000 esclaves à Atès, un village à la frontière avec le Mali. Le Gouvernement aurait interdit la cérémonie peu avant sa tenue et intimidé ceux qui auraient voulu y participer.

399. Le 4 août 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la vente d’enfants, la prostitution des enfants et la pornographie impliquant des enfants, 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 sur la traite des êtres humains, en particulier les femmes et les enfants, a envoyé une communication concernant le manque de mesures prises pour répondre aux allégations relatives aux **formes modernes et traditionnelles de la traite des personnes** et du travail forcé, y compris l’esclavage et les pratiques analogues à l’esclavage. Selon les informations reçues, le Niger ne posséderait pas encore de législation spéciale prohibant toutes formes de traite des personnes et en faisant un crime. En outre, des renseignements indiqueraient que le comité des experts du Ministère de la justice, responsable des politiques contre la traite des personnes, n’existerait plus. D’autre part, selon les informations reçues, le Niger serait devenu un pays de transit pour le trafic de femmes et jeunes filles, certaines de seulement 15 ans, en provenance du Nigéria, du Ghana, du Togo, du Bénin, du Burkina Faso et du Gabon et à destination du Maghreb et de l’Europe, où elles seraient forcées de se prostituer, ou encore du Proche-Orient, où elles seraient exploitées pour du travail domestique forcé. Dans certains cas, ces femmes et

jeunes filles seraient également forcées à se prostituer sur le territoire du Niger, en particulier dans les régions de Zinder et Maradi et à Niamey. Des femmes et des jeunes filles nigériennes seraient elles aussi trafiquées à des fins similaires à l'intérieur du pays, vers l'Europe, le Nigéria et le Proche-Orient. Les informations indiquent que les victimes, fréquemment issues de zones rurales appauvries, se laisseraient convaincre par les promesses de meilleures opportunités que leur feraient miroiter les trafiquants. En particulier, il a été rapporté que certaines jeunes filles auraient cru être invitées à effectuer un pèlerinage à La Mecque. L'accès limité à l'éducation, illustré par un taux d'alphabétisation des femmes extrêmement bas (9,3 % en 2002) rendrait les femmes et les jeunes filles particulièrement vulnérable à ce type de supercherie. Les informations reçues indiquent également que, dans de nombreuses régions du Niger, les systèmes d'esclavage, historiquement répandus, se seraient transformés en des systèmes discriminatoires, de castes. Les femmes et des jeunes filles provenant des castes d'anciens esclaves se trouveraient plus exposées au trafic d'êtres humains, dans la mesure où elles seraient considérées comme issues d'une strate sociale inférieure. Au-delà des problèmes liés au système des castes, l'esclavage et les pratiques s'y apparentant – telles que définies dans des instruments internationaux – continueraient d'exister aujourd'hui au sein de certains groupes ethniques. Ces pratiques incluraient des formes de servage reposant sur un mélange d'obligations provenant de normes coutumières et d'une pauvreté extrême telles que cultiver sans rémunération les champs d'un propriétaire foncier pouvant s'en approprier la récolte à son gré. En outre, certains riches propriétaires fonciers utiliseraient leur moyens financiers pour générer des situations de servitude en prêtant de l'argent à des taux usuraires aux paysans nécessiteux et demandant d'être remboursés sous la forme de travail sous-rémunéré. De véritables relations maître-esclave, dans lesquelles des personnes et leurs descendants sont considérés et traités comme la propriété personnelle d'une tierce personne, continueraient également d'exister. Dans ce type de cas, les victimes seraient forcées d'élever le bétail, d'accomplir les travaux agricoles ou domestiques du maître en échange d'un peu de nourriture et d'un endroit où dormir. Les femmes devraient aussi se soumettre aux exigences sexuelles du maître. Les victimes ne pourraient prétendre à aucune propriété personnelle: en cas de décès, le maître s'approprie leurs biens. Les victimes désobéissantes souffriraient d'abus physiques violents qui dans certains rares cas pourraient aller jusqu'à la castration, ou de privation de nourriture. Les descendants des victimes seraient eux-mêmes considérés comme des esclaves, ce qui contribuerait à perpétuer la situation. En particulier, il a été rapporté que les maîtres sépareraient souvent les bébés de leurs mères aussitôt que ceux-ci seraient sevrés afin de détruire les liens familiaux et les empêcher de connaître leurs ancêtres. Le maître déciderait que l'enfant esclave fréquente ou non une école et à qui le marier. Certaines jeunes esclaves seraient vendues comme concubines à certains notables du Nigéria. D'après les informations reçues, il semblerait que le maintien de situations d'esclavage ne nécessiterait pas d'entraves physiques à la liberté des victimes. En effet, l'endoctrinement psychologique (qui ferait dépendre le salut spirituel de l'obéissance), l'intimidation physique et l'absence d'alternative pour survivre préviendraient les victimes de chercher à s'affranchir. Les Rapporteurs spéciaux et la Représentante spéciale du Secrétaire général trouvent encourageant d'observer que des lois prohibant et criminalisant l'esclavage et les pratiques assimilées sont entrées en vigueur en avril 2004. Cependant, selon les renseignements ayant été communiqués, certains agents publics passeraient délibérément outre certaines pratiques constituant des crimes au regard de la loi, et personne à ce jour n'aurait encore été condamné dans le cadre de la nouvelle législation. Les déclarations publiques de certains hauts fonctionnaires du Gouvernement, niant l'existence de l'esclavage au Niger, légitimeraient le refus des agents publics d'intervenir dans les cas d'esclavage ou de pratiques traditionnelles analogues. En outre,

l'attitude de certaines autorités ferait obstruction au travail des organisations de la société civile et des défenseurs des droits de l'homme contre l'esclavage au Niger. En particulier, le 28 avril 2005, le Gouvernement aurait arrêté **Ilguilas Weila**, Président de l'ONG Timidria, et **Alassane Biga**, Secrétaire général du bureau de Timidria à Tillabéri. Ce cas a déjà fait l'objet d'un appel urgent de la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, du Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et de la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme daté du 18 mai 2005. Les experts remercient le Gouvernement pour sa réponse prompte et détaillée du 20 mai 2005 (0003742/MAE/C/SG) dans laquelle il informait qu'Ilguilas Weila et Alassane Biga seraient accusés de faux et tentative d'escroquerie. Selon les derniers renseignements, les deux hommes auraient été remis en liberté sous caution, mais la cour n'aurait pas rendu d'ordonnance de non-lieu. Les experts auraient donc réitéré leur préoccupation quant à la situation de ces deux défenseurs. Enfin, certaines autres pratiques traditionnelles représentant des formes de traite de personnes existeraient toujours au Niger. En particulier, celles consistant en ce que les parents incapables d'assurer l'alimentation de leurs enfants ou pensant ainsi mieux pourvoir à leur éducation enverraient leurs jeunes fils âgés de 7 à 12 ans à des enseignants religieux (les marabouts). Certains marabouts forceraient leurs élèves à mendier, fixant un quota journalier pour chacun. Certains élèves n'ayant pas réussi à remplir leur quota aurait recours à la petite délinquance pour éviter de se faire battre. D'autres marabouts obligeraient leurs élèves à effectuer de durs travaux manuels. Beaucoup des parents ne seraient pas conscients de ces pratiques lorsqu'ils confieraient leurs enfants aux marabouts. D'autres n'ignoraient pas la situation, mais ils considéreraient le travail des enfants comme faisant partie de la culture nigérienne.

400. Le 1<sup>er</sup> novembre 2005, la Représentante spéciale du Secrétaire général a envoyé une communication concernant la situation de M. **Nouhou Mahamadou Arzika**, Président de la Coalition équité/qualité contre la vie chère au Niger. Selon les informations reçues, le 26 octobre 2005, en fin de matinée, alors que M. Arzika se trouvait en rendez-vous avec une représentante de l'ambassade des États-Unis au Niger, un homme d'affaires proche du pouvoir, dont le nom est connu de la Représentante spéciale du Secrétaire général, aurait fait irruption dans les locaux de la Coalition à Niamey. L'homme d'affaires en question, accompagné de deux autres personnes, aurait menacé M. Arzika et tenté de tirer sur lui avec un pistolet mais l'arme se serait enrayée. Il aurait alors donné l'ordre aux deux personnes qui l'accompagnaient, armées de gourdins, de tuer M. Arzika. M. Arzika aurait été roué de coups mais aurait finalement réussi à s'enfuir grâce à l'intervention de l'un de ses collègues au moment où l'un des agresseurs tentait de l'étrangler. Le 27 octobre 2005, M. Arzika aurait porté plainte auprès de la brigade de gendarmerie de Niamey. Des craintes ont été exprimées que cette attaque ne soit liée aux activités de M. Arzika en tant que président de la Coalition équité/qualité contre la vie chère et animateur de deux émissions sur des radios privées, Radios RM et Radio Ténéré, dont les sujets portent sur la lutte contre la corruption, la lutte contre l'impunité et la défense des droits économiques et sociaux au Niger. Ces craintes sont d'autant plus vives que ces événements surviennent après que M. Arzika a été arrêté et détenu en mars dernier après avoir participé à un mouvement de la société civile contre la vie chère.

### Réponses reçues

401. Le Gouvernement de la République du Niger a répondu à l'appel urgent du 3 juin 2005 concernant l'association Timidria par lettre en date du 9 juin 2005. Le Gouvernement a informé la Représentante spéciale du Secrétaire général que, le 5 mai 2005, M. Weila Ilguilas et M. Alasanne Biga ont été inculpés et placés sous mandat d'arrêt pour tentative d'escroquerie. Le Gouvernement a indiqué que depuis cette arrestation le milieu des associations aurait fait des déclarations tendancieuses afin de faire croire que ces poursuites seraient sans fondement. Le Gouvernement du Niger a expliqué dans sa réponse que M. Ilguilas lui-même avait écrit en septembre au président de la Commission nationale des droits de l'homme et des libertés fondamentales (CNDHLF) pour porter à sa connaissance le fait que Timidria avait été saisi par le chef du groupement nomade de Tahabenet d'Inates en l'informant qu'il projetait de procéder à la libération de 7 000 esclaves et lui demandant de l'aider financièrement. Selon le Gouvernement, en réponse, le président de la CNDHLF aurait mis en place une commission d'enquête administrative composée de membres de la Commission nationale et de représentants des Ministères de la justice, la défense et l'intérieur. Le rapport de la commission d'enquête aurait conclu qu'il n'existait pas d'esclaves au sein de ce groupe et que la lettre du chef en question aurait été initiée par M. Biga sur instruction de M. Weila qui avaient pour but d'instrumentaliser une situation imaginaire inexistante afin d'obtenir des financements au profit de Timidria et ses dirigeants. Selon le Gouvernement, le rapport d'enquête administrative de la CNDHLF aurait fait avorter l'escroquerie et aurait été suivi d'une enquête judiciaire aboutissant à l'inculpation des deux hommes. Le Gouvernement note que la CNDHLF, institution ayant intenté l'action contre Timidria, est une institution libre composée de centrales syndicales, d'organisations patronales de magistrats et d'organisations des droits de l'homme. Le Gouvernement a indiqué que la détention du président de Timidria et de son adjoint pour faux et tentative de faux était issue des actions de la CNDHLF et noté qu'il appartenait maintenant à la justice nigérienne d'instruire cette affaire. Le Gouvernement a noté par ailleurs que le Niger avait pris depuis 2003 des dispositions quant à l'abolition de l'esclavage, le Premier Ministre ayant adressé une lettre au Ministre de l'intérieur l'instruisant de notifier aux responsables administratifs, coutumiers et religieux l'arrêt de toute forme d'esclavagisme.

### Observations

402. La Représentante spéciale du Secrétaire général prend bonne note de la réponse du Gouvernement à sa communication du 3 juin 2005 et l'invite à lui transmettre des réponses à ses autres communications.

## Nigeria

### Communications sent

403. On 6 September 2005, the Special Representative sent a letter of allegation concerning Mr. **Chidi Odinkalu**, Africa Programme Director of the NGO Open Society Justice Initiative (OSJI), an organisation that pursues law reform activities grounded in the protection of human rights and the development of legal capacity for open societies, and leader of the campaign for Charles Taylor's indictment before the Special Court for Sierra Leone to face justice for war crimes and crimes against humanity. According to the information received, on 2 August 2005, at approximately 10:00, agents of the State Security Service (SSS) searched the OSJI offices in

Abuja, searching for Mr. Chidi Odinkalu and allegedly claiming to have instructions to arrest him. It is reported that they did not have an arrest warrant. Mr. Chidi Odinkalu was reportedly attending the public presentation of the Civil Liberties Organisation (CLO) 2004 Annual Report, of which he was the reviewer, at the time of the raid. The SSS agents, unable to locate Mr. Chidi Odinkalu at the offices, allegedly took some of his staff hostage and detained them until the afternoon of the 2 August 2005. They also reportedly summoned Chidi Odinkalu in absentia for questioning at the SSS headquarters. Concern was expressed that the raid and ransacking of Mr. Chidi Odinkalu's offices and the subsequent summons for questioning constitute an attempt to intimidate him and prevent him from carrying out his human rights work.

### **Observations**

404. The Special Representative regrets that at the time this report was being finalized, no response had been received from the Government of Nigeria.

405. She also notes that in May 2005 at the invitation of the Government, she conducted an official visit to Nigeria. She thanks the Government for its collaboration in preparation and conduct of the mission. She draws attention to her report made following this visit.

## **Pakistan**

### **Communications sent**

406. On 18 May 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation regarding the **violent disruption, by uniformed police from the Punjab police force, as well as plainclothes police from the police and intelligence agencies, of a peaceful activity organized in support of women's rights in Lahore** on 14 May 2005. According to information received, members of human Rights organizations, lawyers, trade union members, journalists, teachers and other concerned persons gathered in Lahore on 14 May at 17.00 to participate in a marathon run organized by the Human rights Commission of Pakistan (HRCP), an NGO, in collaboration with more than 40 civil society organizations to support women's call for freedom from violence. According to the information received, local Government authorities were informed 1 week prior to the event, in a letter to the Mayor, of the planned activity, its schedule and its purpose. According to the information received, the event was scheduled to start from the Qadafi Stadium in Lahore. However, police forces reportedly barricaded all entrances to the venue and prevented the participants from gathering there. Police forces also reportedly surrounded the AGHS Legal Aid Cell office of the HRCP Chairperson, **Asma Jahangir**, Special Rapporteur on freedom of religion or belief, to prevent her and other lawyers and activists from joining the Marathon. The AGHS second floor office was forcibly locked by the police and everyone inside was kept confined to the office for one hour. Reportedly, Ms. Jahangir and other lawyers present eventually left the second floor office through the fire escape and descended to the street at the rear of the building. According to the information received, they were surrounded immediately by a large contingent of uniformed policemen and women and plainclothes policemen. Ms. Asma Jahangir, as well as the current Secretary General of the HRCP and other human rights defenders, were reportedly beaten with batons by the police and

Ms. Jahangir was reportedly dragged along the floor and her clothes were torn. Ms. Jahangir and about 15 other defenders were reportedly forced into a vehicle by the police and taken to the Race Course police station. Meanwhile, according to the information received, the police beat other participants who had gathered outside the AGHS office, including Mr. **Joseph Francis**, Mr. **Waseem Yousaf**, Ms. **Aneeqa Maria**, and Mr. **Sohail Samson**, all staff with the Centre for Legal Aid, Assistance and Settlement (CLAAS) and Mr. **Iqbal Haider**, a staff member of the HRCP. Both men and women defenders were reportedly beaten, kicked, punched, slapped and verbally abused by the policemen who then forced them into police vans. According to the information received, at this time, Ms. **Hina Jilani**, Special Representative of the Secretary General on human rights defenders and former HRCP Chairperson, arrived at the AGHS office, where she works. Ms. Jilani was arrested along with about 18 other human rights defenders who were then taken to the Model Town police station. The information received also indicated that, in addition to beatings by the police, activists belonging to the Jamaat-e-Islami, a political party, also beat men and women participants in the marathon event. The human rights defenders in both police stations were held for about 4 hours before being released. Moreover, despite repeated requests, they were never informed of the reasons for their arrest and no charges were brought against them. No official statement was issued by the authorities. However, the police are reported to have indicated to the press that the Marathon was stopped because the organizers had not sought permission for the event to take place.

407. On 29 June 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation regarding Ms. **Mukhtar Mai**, who was reportedly prevented from leaving Pakistan in order to speak at an event organized by a human rights group in the United States. According to the information received, in 2002, Ms. Mai, age 18 at the time, was gang raped under the order of a tribal council after her 11 year old brother had been seen alone with a girl from another caste. The former Special Rapporteur on violence against women, its causes and consequences sent a communication to the Government, a summary of which is provided in E/CN.4/2003/75/Add.2. The case against the perpetrators was brought to court and Ms. Mai testified against them. As a result of the incident, she was compensated by the Government. She used the money received to build schools and reportedly hopes to establish a shelter for women victims of violence. It was reported that Ms. Mai was invited to the United States to speak about her experiences, but in arranging her trip, she discovered that she had been placed on Pakistan's "exit control list." The information alleged that Ms. Mai was prevented from leaving her home while under strict police watch as of 9 June. She was subsequently taken to an undisclosed location by Government agents. At a press conference on 14 June, the Government reportedly announced that Ms. Mai was free to travel wherever she wanted, but that she would be accompanied by a police escort for her own protection. However, Ms. Mai indicated that she has been put under significant pressure by the Government to withdraw her visa application to visit the United States. It was also reported that the Government had taken away Ms. Mai's passport, making it impossible for her to travel abroad. Furthermore, it was reported that, on 18 June, the President of Pakistan stated that he placed a travel ban on Ms. Mai in order to protect Pakistan's image abroad.

408. On 7 July 2005, the Special Representative, together with the Special Rapporteur on the question of torture sent an allegation letter concerning **Muhammad Ali Shah** (Chairperson), **Sultan Ahmed** (alias Sami Memon), **Jamal Mustafa Shoro**, **Allah Dino Mallah** and

**Muhammad Mallah**, all members of the Pakistan Fisher Folk Forum, a national organization for the protection of the rights of the fishing community. According to the information received, on 16 May 2005, Muhammad Ali Shah, Sultan Ahmed, Jamal Mustafa Shoro, Allah Dino Mallah and Muhammad Mallah were arrested following a demonstration against the licensing system on inland fishing areas that was adopted by the Government of Sindh. They were held in Nara Jail, Hyderabad, Pakistan. It was reported that despite having been granted bail by a competent court, Muhammad Ali Shah, Sultan Ahmed, Jamal Mustafa Shoro, Allah Dino Mallah and Muhammad Mallah remained in detention under the Maintenance of Public Order Ordinance, a law providing for preventative detention. A petition was filed in the Sindh High Court to challenge this detention, however, on 6 June 2005, the day before the petition was to be heard by the High Court, they were all released. Concern was expressed that the detention of Muhammad Ali Shah, Sultan Ahmed, Jamal Mustafa Shoro, Allah Dino Mallah and Muhammad Mallah may be in retaliation for their human rights activities as members of the Pakistan Fisher Folk Forum and in particular their activities against the licensing system adopted by the Government of Sindh.

409. On 23 August 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the question of torture sent an urgent appeal concerning Mr. **Ali Nawaz**, Mr. **Akhter Nadeem**, Mr. **Allah Nazar**, all members of the Baloch Students Organization (BSO), held in a police station in the village of Chandar Maa, Punjab province. According to the allegations received, Ali Nawaz, Akhter Nadeem and Dr. Allah Nazar were arrested in Karachi on 25 March 2005, along with four others who were later released. On 13 August 2005, after more than 4 months of incommunicado detention, they were produced before a court in the city of Sadiq Abad in relation to an alleged case of robbery. The men reportedly appeared again in front of the court on 17 August 2005. During their detention all three men were tortured using electric shocks. As a result Dr. Allah Nazar is partially paralysed and unable to speak or recognise anyone. The authorities have reportedly denied the men access to medical treatment. Concern is expressed that they are being detained because of their involvement with the BSO, a group which is active in defending the plight of the Baloch people and which has campaigned on issues including recent allegations of the unlawful killing of villagers by the military in Balochistan. With a view to the above, concern was expressed as to their physical and mental integrity if they do not receive adequate medical treatment.

410. On 2 September 2005, the Special Representative, together with the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteur on trafficking in persons, especially women and children, and the Special Rapporteur on violence against women, its causes and consequences sent an urgent appeal concerning Mr. **Farooq Ahmed Khan**, Coordinator for the Coalition on Ending Violence Against Women and Director of the NGO Cholistan Development Council and Sumaira, 16 (f) resident of Union Council # 90, Ward # 1, Hafiz Colony Tehsil Yazma, Bahawalpur. According to the information received, on 20 August 2005, Mr. Farooq Ahmed Khan filed a request for security assistance with the District Police Office in Bahawalpur, following threats he has been receiving due to his work with the Coalition on Ending Violence Against Women. It was reported that no action had been taken in this regard. Mr. Farooq Ahmed Khan has been involved in the case of the 16 year old girl Sumaira, who was allegedly kidnapped in May 2005 and held against her will for one and a half months by six men, led by the local landlord Shahzad Sardar S/O Mohd Nawab Sardar, who also lives in Union Council # 90. During her time in captivity, Sumaira was allegedly repeatedly gang

raped. Before they released her, they tried, unsuccessfully, to force Sumaira to marry another man in order to cover their own acts. Eventually they took Sumaira to a shelter and left her there. Sumaira's father attempted to lodge a FIR with the police. The police, however, refused to lodge the FIR against the local landlord and suggested Sumaira escaped willfully. Mr. Farooq Ahmad Khan, however, managed to lodge the appeal against the perpetrators and was able to remove Sumaira from the shelter. This case is currently before the Bahawalpur High Court. The perpetrators are constantly threatening to repeat the same thing to Sumaira's youngest sister if they speak about what happened to Sumaira in court. The perpetrators are also threatening Mr. Farooq Ahmad Khan for his work in recovering Sumaira from the shelter and for lodging the complaint against them. Mr. Farooq Ahmad Khan reports the continuous harassment of himself and his family members since his involvement in the case. As a result he has been forced to send his children to stay with his relatives, for their safety. Furthermore, local newspapers dated 19 July 2005 highlight attempts by the accused party to discredit Mr. Farooq Ahmad Khan in the community and accuse him of being a 'blackmailer' and an 'agent of the West'. Concern is expressed that the harassment of Mr. Farooq Ahmad Khan constitutes a direct attempt to prevent him from carrying out his human rights work for the Coalition on Ending Violence Against Women and Cholistan Development Council and silence him in the current court case being taken by Sumaira. Fear was expressed that Mr. Farooq Ahmad Khan, Sumaira and both their families are at risk of further harassment based on the current judicial proceedings.

### **Communications received**

411. In a letter dated 18 July 2005, the Government of Pakistan replied to the communication of 7 July 2005 concerning **Muhammad Ali Shah** (Chairperson), **Sultan Ahmed (alias Sami Memon)**, **Jamal Mustafa Shoro**, **Allah Dino Mallah** and **Muhammad Mallah**, all members of the Pakistan Fisher Folk Forum. The Government stated that on 16 May 2005 the persons concerned issued threats of dire consequences to the Government officers, caused wrongful restraint and formed unlawful gathering by using different slogans, as a result of which they were detained under section 3.1 of the West Pakistan Public Order Ordinance of 1960. They were subsequently released.

412. In a letter dated 19 September 2005, the Government replied to the communication of 29 June 2005 concerning **Ms. Mukhtar Mai**. The Government clarified that Ms. Mai was not 18 at the time of when she was gang raped, but 33. The Government also denied that Ms. Mai had been placed on the exit control list and reported that Ms. Mai is free, and has been free, to travel anywhere in the country or abroad. The Government also informed that Ms. Mai has her passport, which contains a visa for travel to the United States.

413. In a letter dated 20 December 2005 the Government transmitted the following information regarding the communication of 2 September 2005. The Government stated that the case of Ms. Sumaira Sattar was dismissed on 13 September 2005 and that she was ordered to be sent to a sanctuary for distressed women.

### **Observations**

414. The Special Representative thanks the Government of Pakistan for its responses to her communications of 7 July 2005, 29 June 2005 and 2 September 2005.

415. While she welcomes the release of **Muhammad Ali Shah** (Chairperson), **Sultan Ahmed (alias Sami Memon)**, **Jamal Mustafa Shoro**, **Allah Dino Mallah** and **Muhammad Mallah** but remains concerned about the use of preventive detention in such circumstances as it may be used to prevent human rights defenders from carrying out their activities in defence of human rights.

416. Concerning the communication of 2 September 2005 the Special Representative regrets that no information was provided by the Government regarding any measures that were taken to investigate the threats and harassment experienced by **Farooq Ahmed Khan** or to bring the perpetrators to justice.

## Paraguay

### Comunicaciones enviadas

417. El 19 de agosto 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión envió un llamamiento urgente en relación con el Sr. **José Bordón**, líder comunitario de Naranjito, distrito de General Resquín, departamento de San Pedro, secretario general de la Coordinadora de Lucha por la Reforma Agraria del Departamento de San Pedro y coordinador para el Frente Distrital de General Resquín; así como las Hermanas **Juana Antonia Barua** y **Clara Nimia Insaurrealde**, dos monjas de la Congregación de Nuestra Señora de la Inmaculada Concepción. De acuerdo con la información recibida, los días 4 y 5 de agosto de 2005, José Bordón, Juana Antonia Barua y Clara Nimia Insaurrealde habrían recibido en sus respectivos domicilios unos sobres que contenían amenazas de muerte y cartuchos de escopeta. Los autores de estas amenazas se habrían mantenido en el anonimato. La carta que habrían recibido las monjas decía en jopará “si cuando termine agosto no se han marchado, este será su destino. Dejen de apoyar al Frente”. La carta recibida por José Bordón, también escrita en jopará, llevaría el mensaje siguiente: “déjalo, viejo, deja el trabajo por los sin tierra y los del Frente o este será tu destino”. Estas cartas se habrían enviado cuando se estaba celebrando un seminario para líderes comunitarios sobre el sistema judicial, organizado por organizaciones no-gubernamentales (ONG) de derechos humanos y el Frente Distrital de General Resquín. Efectivamente, juntamente con otras ONG paraguayas, estas tres personas organizan talleres de formación sobre asuntos jurídicos y legales con el fin de diseminar información y proporcionar a aquellos que los necesiten conocimientos sobre la legislación nacional y el sistema judicial paraguayo. Juana Antonia Barua, Clara Nimia Insaurrealde y José Bordón también trabajan en cuestiones relacionadas con la defensa de los derechos económicos, sociales y culturales y de los derechos medioambientales. Según la información recibida, las amenazas estarían relacionadas con su reciente labor de concienciación sobre los derechos de los campesinos, promoción de cultivos alternativos y su preocupación por el uso excesivo de pesticidas agrícolas por parte de los terratenientes. Se habría presentado una denuncia en relación con dichas amenazas ante la comisaría de policía 26 de Naranjito, la Comisión de Derechos Humanos del Senado y el Ministerio Público y se habría solicitado protección policial. Sin embargo, no se tenía conocimiento de que se hayan adoptado medidas para garantizar la seguridad de estas personas. Se teme que estas amenazas estuvieran un intento para impedir que José Bordón, Juana Antonia Barua y Clara Nimia Insaurrealde continúen su trabajo de promoción y defensa de los derechos humanos anteriormente descrito.

### **Comunicaciones recibidas**

418. Por carta con fecha del 28 de septiembre de 2005, el Gobierno del Paraguay remitió la siguiente información relativa a las hermanas **Juana Antonia Barua** y **Clara Nimia Ibarrola** y del Sr. **José Bordón** en respuesta a la comunicación del 17 de agosto de 2005. El Gobierno, por medio del departamento de derechos humanos del Ministerio de asuntos exteriores envió el informe de la unidad penal N°1 quien investiga los hechos, Causa n°367/05 caratulada “Personas innominadas s/ Amenaza de Muerte en Gral Resquín”. El 5 de agosto la Unidad penal ingresó la causa presentada por los Sres Roque Orrego, Ruben Notario, Liberato Bracho, José Bordón, Daniel Romero, Hna, Juana Antonia Barua y Clara Nimia Insauralde y comunicó al Juzgado Penal de Garantías el inicio de la investigación en relación al hecho denunciado. Por la misma fecha se recibió otra denuncia remitida por la Policía Nacional de la Colonia Naranjito donde presentaron su denuncia las Hnas Juana Antonia Barua y Clara Nimia Insauralde. Las diligencias en la causa como la realización de las declaraciones de los testigos están en curso de realización. Por otra parte, se practicó la Solicitud de informe a la Comisaría afectada en relación al hecho y a la custodia policial solicitada en donde se informó que las partes no aceptaron la custodia policial pues no era la solución que querían. El Gobierno también transmitió una copia de la denuncia presentada a la Comisión de derechos humanos, una copia de la denuncia presentada a la Comisaría de Naranjito y el informe de la audiencia llevada a cabo por la Comisión de derechos humanos de la Cámara de senadores con el fiscal de Santa Rosa del Araguay y con el Sub Comandante de la Policía Nacional.

### **Observations**

419. The Special Representative thanks the Government of Paraguay for its response to her communication of 28 September 2005 and looks forward to receiving further information regarding the outcome of the investigations.

## **Peru**

### **Comunicaciones enviadas**

420. El 28 diciembre 2004, la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados, envió un llamamiento urgente sobre la atención urgente de su Gobierno la información que hemos recibido sobre la situación del Sr. **Henry Cama Godoy**, Fiscal Provincial Titular de la Fiscalía Provincial Mixta de Chíncha, quien habría recibido recientemente amenazas. De acuerdo con las informaciones recibidas, el 3 de febrero de 2004, el señor fiscal Cama Godoy habría formalizado denuncia penal contra el Mayor PNP Ricardo Enrique Guillén Balbín, Mayor PNP Jefe del Departamento de investigación Policial y Prevención de Chíncha, por los delitos de tortura, usurpación de funciones, desobediencia a la autoridad y abuso DE autoridad en agravio de Pablo Fabio Sánchez Conde. El agraviado, al revisar el expediente, se habría encontrado con una declaración jurada, firmada supuestamente por él, por la cual se desistía de la denuncia y afirmaba que la denuncia fiscal era totalmente falsa. El agraviado no habría reconocido como suya la firma ni la huella digital de la declaración jurada, firmada también por el abogado Dario Armando Viteri Ormeño. El señor Fiscal Henry Cama Godoy, ante esta evidencia, habría solicitado al Juez Penal que se remitieran copias certificadas de las piezas del proceso a la Fiscalía de turno para la investigación que corresponde.

A partir de ese momento, el señor Fiscal Cama Godoy habría empezado a recibir llamadas amenazadoras a su teléfono celular, pese a haber cambiado de número, y al teléfono de su despacho, así como denuncias penales en su contra. El 5 de diciembre 2004, aproximadamente a las 9.30 pm, el personal de seguridad del Ministerio Público de Chíncha habría recibido una llamada telefónica, pidiendo se comunicara al doctor Henry Cama Godoy el siguiente mensaje: "Dile a ese doctor que deje el caso que esta viendo o de lo contrario se va a joder". Al día siguiente, el asistente del señor fiscal, Américo Mendoza Muñoz, habría recibido una llamada telefónica a las 8.50, escuchando una voz masculina que le dijo: "Dile a ese Fiscal de mierda que de parte del Dr. Viteri si no se aparta de ese proceso lo vamos a joder". También, el 29 de noviembre de 2004, el abogado Darío Armando Viteri Ormeño habría denunciado ante la comisaría de Chíncha que dos sujetos desconocidos habían incursionado en su domicilio de parte del Fiscal Cama Godoy, con la finalidad de coaccionarlo y que acepte haber sido el autor de la falsificación denunciada. Estas amenazas han generado que el Fiscal habría tenido que retirar de Chíncha a su familia por razones de seguridad y, finalmente, el 6 de diciembre, habría tenido que excusarse del proceso.

421. El 28 febrero 2005, la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados, envió un llamamiento urgente sobre la situación de la Sra. **Cristina del Pilar Olazábal**, Fiscal Especializada para Desapariciones Forzadas, Ejecuciones Extrajudiciales y Exhumaciones de Fosas Clandestinas, encargada de investigar las violaciones a los derechos humanos ocurridas en el Departamento de Ayacucho desde 1980 al 2000, y de la Sra. Gloria Cano, abogada miembro de la organización no gubernamental Asociación Pro Derechos Humanos (APRODEH), quienes habrían sido víctimas de presiones y actos de hostigamiento. La Sra. Gloria Cano fue objeto también de un llamamiento urgente enviado conjuntamente el 22 de noviembre de 2004 por el Relator Especial sobre la independencia de los 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. De acuerdo con las informaciones recibidas, la fiscal Cristina del Pilar Olazábal habría sido encargada de investigar las denuncias de genocidio, asesinato y omisión impropia que involucrarían al dirigente del Partido Aprista Peruano (APRA), Sr. Alan García Pérez, Ex Presidente de la República, y a 25 militares por su presunta responsabilidad en el caso de la masacre de Accomarca, Departamento de Ayacucho, ocurrida el 14 de agosto de 1985, y que dejó como resultado 62 campesinos muertos supuestamente por miembros del Ejército. La Sra. Gloria Cano sería la abogada promotora del caso. Estas dos juristas habrían recibido severas críticas por parte de representantes del Partido Aprista Peruano por su actuación en relación con este caso. En particular, se informa que un ex senador del Partido Aprista Peruano habría acusado a la fiscal y a la abogada de "utilizar la ley y el Estado de Derecho como una chaveta nocturna que utilizan los pandilleros" en una entrevista a Radio Melody, reproducida el 7 de febrero de 2005 por el diario Correo de Ayacucho. Además, con respecto a la Sra. Cristina del Pilar Olazábal, el mismo ex senador habría indicado que "[los apristas] irían al Consejo de la Magistratura para que aplique la ley de manera más drástica e irían a quejarse al órgano de Control Interno del Poder Judicial porque el caso no podía estar en manos de gente desquiciada". Agregó que "esa mujer simplemente iba a tener que responder, porque tiene la mente perturbada y el alma enferma". También se informa que, después de estas declaraciones circularon rumores en el Ministerio Público de Huamanga según los cuales la fiscal Cristina del Pilar Olazábal sería separada de su cargo. A la luz de las informaciones mencionadas se expresó la preocupación que las intimidaciones e interferencias en sus

actividades sufridas por la fiscal Cristina del Pilar Olazábal y la abogada Gloria Cano estuvieran relacionadas con su labor en defensa de los derechos humanos y su actuación con respecto a este caso.

422. El 10 de junio de 2005, la Representante Especial, junta con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión y el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias envió un llamamiento urgente en relación con **Luís Alberto Ramírez Hinostroza**, quien fue víctima de tortura durante la dictadura militar y quien fue uno de los testigos principales ante la Comisión de la Verdad y Reconciliación del Perú y ahora va a testificar en el proceso judicial contra un general retirado acusado de la desaparición forzada de nueve personas en 1991. Su caso ya fue objeto de un llamamiento urgente enviado el 7 de septiembre del 2004 por la Representante, junta con el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial sobre la tortura, el Relator Especial sobre la independencia de magistrados y abogados y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión. De acuerdo con las nuevas alegaciones recibidas, el 1 de junio del 2005, aproximadamente a las 6:30 de la tarde, dispararon varias veces a Luís Alberto Ramírez Hinostroza desde un vehículo en movimiento mientras cruzaba por el parque Mariscal Castillo de Lima, acompañado de un guardaespaldas de la policía. El atentado ocurrió después de mantener una reunión con sus abogados del Instituto de Defensa Legal (IDL). Debido a la intervención del agente policial asignado para su custodia, ambos salieron ilesos de los disparos de arma de fuego. Este último intento de asesinato es el tercer atentado contra la vida del Sr. Ramírez en el transcurso de un poco más de un año. Se teme que este nuevo intento de asesinato pudiera estar relacionado con el testimonio previsto de Luís Alberto Ramírez Hinostroza en el juicio contra un general retirado por la desaparición de al menos nueve estudiantes universitarios detenidos en el cuartel militar “9 de Diciembre” de Huancayo. A la luz de estas nuevas alegaciones y a pesar de las medidas cautelares otorgadas por la Comisión Interamericana de Derechos Humanos y el Estado Peruano a favor de Luís Alberto Ramírez Hinostroza y su familia, se teme por la vida e integridad física de dichas personas.

423. El 27 de octubre de 2005, la Representante Especial, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, envió una llamada urgente en relación con el Sr. **Salomón Lerner**, ex-presidente de la Comisión Verdad y Reconciliación del Perú (CVR), y actual presidente de la Unión de Universidades de América Latina y del Instituto de Democracia y Derechos Humanos de la Pontificia Universidad Católica del Perú. De acuerdo con las informaciones recibidas, el 8 de septiembre de 2005, una persona no identificada habría llamado por teléfono al Sr. Lerner. Al encontrarse éste en aquel momento fuera del país, la persona habría hablado con su secretaria, dejando el mensaje siguiente: “Dígale a Lerner que se considere muerto”. Anteriormente el Sr. Lerner, y otros antiguos miembros de la CVR, habrían recibido varios correos electrónicos insultantes. El Sr. Lerner, que es de origen judío, habría recibido mensajes antisemitas. Casi todos los correos electrónicos estarían firmados por un grupo “Pachacútec”, del cual no se conocería nada. Se teme por la seguridad y la integridad física y psicológica del Sr. Lerner y otros antiguos miembros de la CVR, en particular a la luz de que estas amenazas coinciden con los primeros avances en el esclarecimiento de los casos que la CVR remitió a las instituciones judiciales peruanas y con la publicación del informe de la Comisión. Además, según la información recibida, el Sr. Lerner y todos los ex-comisionados de la CVR enfrentan nueve procesos judiciales por los delitos de ‘falsedad pública y genérica’, entablados por algunos generales y coroneles retirados (los nombres de los cuales han sido

llevados a la atención de la Representante Especial) cuya supuesta implicación en casos de violaciones de derechos humanos habría sido denunciada por la CVR.

424. El 16 de noviembre de 2005, la Representante Especial envió una llamada urgente en relación con los Señores **Francisco Soberón** y **Alejandro Silva**, respectivamente Secretario Ejecutivo y Adjunto a la Secretaría Ejecutiva de la Coordinadora Nacional de Derechos Humanos (CNDDHH) del Perú. De acuerdo con la información recibida, el 3 de noviembre de 2005, aproximadamente a las 16:30, la Fundación Ecuménica para el Desarrollo y la Paz (FEDEPAZ), organismo miembro de la CNDDHH, habría recibido una llamada anónima, en la cual el autor habría dicho “Dígale a Alejandro Silva y ese Soberón que dejen de declarar a medios (ininteligible) porque sino ya van a ver”. Se espesaron graves temores por la seguridad y la integridad física y psicológica de los Señores Francisco Soberón y Alejandro Silva. Se expresaron temores de que las amenazas en su contra estuvieran relacionadas con su trabajo por los defensores de los derechos humanos, y en particular por un informe que habrían presentado el 17 de octubre de 2005, ante la Comisión Interamericana de Derechos Humanos, titulado “Amenazas y Acciones contra Defensores de Derechos Humanos, Testigos, Agraviados y Operadores de Justicia, en el Perú – 2005”. Según los informes, incluyendo esta amenaza, en el año 2005, ya son más de 45 los casos registrados de amenazas y acosos contra los defensores y las personas implicadas en la investigación de violaciones de los derechos humanos, dentro del contexto del proceso de judicialización de casos de violaciones de derechos humanos ocurridos en el período de violencia comprendido entre los años 1980 y 2000. Anteriormente, el 19 de junio de 1998, Francisco Soberón habría recibido un fax que contenía amenazas en su contra. Además, el 16 de noviembre de 1995, la Asociación Pro Derechos Humanos, organización miembro del Consejo Directivo de la Coordinadora Nacional de Derechos Humanos, habría recibido un arreglo floral fúnebre en forma de una cruz el cual estuvo acompañado de un sobre conteniendo una amenaza en contra de varios individuales incluyendo el Sr. Francisco Soberón. Se expresaron temores de que esta reciente amenaza formara parte de un acoso sostenido de los miembros de la CNDDHH.

### **Observations**

425. The Special Representative regrets that at the time this report was being finalized, no response had been received from the Government of Peru.

## **Philippines**

### **Communications sent**

426. On 22 February 2005, the Special Representative, together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding Mr. **Bienvenido Salinas**, a lawyer and head of the St. Thomas Law Center, a unit of the Urban Poor Associates (UPA), a non-Governmental organization that works for the right to adequate housing of the urban poor, and Mr. Salinas’ children. Mr. Salinas has been involved in litigation cases representing urban poor families who have allegedly been forcibly evicted or threatened with eviction. His work includes the filing of administrative cases at the

Office of the Ombudsman on 31 January 2004 against personnel at the Metro Manila Development Authority (MMDA) and MMDA-assigned police officers, in connection with the alleged demolition on 21 January 2005 of the houses of seven poor families living under the bridge in Barangay Sta. Cruz, Quezon Avenue, Quezon City. According to the information received, on 8 and 9 February 2005, a man telephoned the St. Thomas Law Center and said that "Salinas' days are numbered, so are his children's". Allegedly, on 15 February 2005, a man telephoned the office of the UPA and stated a similar threat. It is reported that, on 17 February 2005, two vans with tinted windows were carefully observing the UPA office. Concern was expressed that the alleged death threats against Bienvenido Salinas and his children might represent an attempt to prevent his human rights defence activity and in particular his legal work advocating housing rights of the urban poor, including the filing of administrative cases at the Office of the Ombudsman on 31 January 2005 on behalf of seven families. The concern was heightened in light of reports that a number of human rights lawyers have been killed in the Philippines.

427. On 25 August 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of allegation the following persons. According to the information received: On 15 June 2005, Professor **Castor Gamalo**, President of the Federation of Teachers Association (FTA) of Eastern Visayas State University (EVSU) in Tacloban City and also a member of the Task Force Detainees of the Philippines (TFDP), was shot at by unidentified assailants while walking along Salazar Street in Tacloban City. He was reportedly hit twice and had to undergo an operation due to the extent of the damage to his left eye. It was reported that Castor Gamalo may have been targeted in connection with protest rallies organised by the FTA against the decision of EVSU Administration, to unseat Gamalo, along with other representatives of teachers and students in the EVSU Board of Directors, without due process. Castor Gamalo was shot at on the second day of protesting. On 12 May 2005, at approximately 17:30 pm, three unidentified gunmen shot at Rev. **Edison Lapuz**, a priest and human rights defender, and **Alfredo Malinao**, a peasant leader, killing them in San Isidro, Leyte. It was reported that Rev. Edison Lapuz may have been killed in connection to the fact that he had been vocal against the killings and harassment of political activists in the area. On 14 March 2005, at approximately 18:45, Fedilito Dacut, lawyer and regional coordinator of Bayan Muna, was killed by two unidentified perpetrators aboard a single motorcycle in Tacloban City. It was reported that Fedilito Dacut may have been killed due to his work as a human rights, agrarian and labour lawyer. In particular he was reportedly among those who initiated a solidarity mission to Catarman, Northern Samar, to investigate allegations of soldiers harassing Bayan Muna members in the said province. On 7 March 2005, **Romeo T. Capulong**, a human rights lawyer and ad litem judge of the UN International Criminal Tribunal for the Former Yugoslavia, was victim of an attempt on his life by fifteen unidentified gunmen travelling in unmarked vehicles without license plates. It is reported that this attempt on the life of Romeo T. Capulong may have been because he was serving counsel to striking workers at Hacienda Luisita, with regard to the picket line of 16 November 2005. The workers have reportedly been striking following failed negotiations on, among other things, wages increases. On 18 February 2005, at approximately 18:30, Fr. **Allen Caparro**, priest of the Iglesia Filipina Independiente (IFI) and Vice-Chairperson of the Promotion of Church People's Response – Eastern Visayas (PCPR-EV), an ecumenical political organisation of church people involved in promoting and advancing the rights of the disadvantaged, and his wife, Aileen Caparro, were victims of an attempt on their lives. According to the information received,

Fr. Allen Caparro and Aileen Caparro were shot at by unidentified armed motorcyclists at the vicinity of Brgy. Tagabaca, Abuyog, Leyte. It was reported that they were targeted because Fr. Allen Caparro exposed and opposed the militarization in Northern and Western Samar due to reported human rights violations by the military in the area. He had also spearheaded an alliance formation in Calbayog, Western Samar. This is an alliance of civil society, church and political groups seeking to defend the interests of marginalised or disadvantaged communities and for the protection of the environment against destructive operations such as mining. Concern was expressed that the reported killing, intimidation and harassment of human rights defenders in the Philippines represents a pattern of harassment by State authorities against defenders intended to discourage them from carrying out their human rights activities. Deep concern was expressed at what seems to be an emerging campaign against those working for the promotion and protection of recognized international human rights.

428. On 28 October 2005, the Special Representative sent a letter of allegation concerning Mr. **Diosdado “Ka Fort” Fortuna**, President of the Filipino Employees Union, Chairman of the Unity of Workers in Southern Tagalog – May First Movement (PAMANTIK-KMU) and Chairman of Anakpawis-Southern Tagalog, and Ms. **Victoria Samonte**, regional Vice-President of May First Movement, Caraga section (KMU-CARAGA), President of the Andres Soriano College Employees Union, Chairperson of ACT-BISLIG, President of Drivers and Operators of Cumawas and Bliss (two districts of Bislig) Association (BCATA), and President of the Castillo Bagong Lipunan Homeowners Association (CBLHA). According to the information received, on 23 September 2005, at approximately 17:00, Mr. Diosdado Fortuna was allegedly attacked in Canlubang, Laguna, by several unidentified men, while riding his motorcycle to his home in Barangay Paciano, Bislig. The men reportedly shot him twice in the chest and Mr. Diosdado Fortuna was pronounced dead upon his arrival at the Calamaba Doctors Hospital. Furthermore, on 30 September 2005, at approximately 21:40, Ms. Victoria Samonte was fatally stabbed by an unknown individual. Ms. Victoria Samonte, along with a colleague, had rented a rickshaw to get from Andres Soriano College in Baarangay to the Bliss Project offices in Barangay Mancarogo. About 100 metres from the school a man flagged down the rickshaw and asked to share the ride. The man requested to get out approximately 100 metres from the Bliss Project office. He allegedly walked along the street and got on a motorcycle. Ms. Victoria Samonte had been stabbed in the back and was declared dead on arrival at the nearest hospital. Without in any way implying that the details were correct, concern was expressed that Mr. Diosdado Fortuna and Victoria Samonte may have been targeted due to their work in respect of economic, social and trade union rights.

429. On 2 December 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning Fr. **Rolando de Leon**, Roman Catholic Priest of the Diocese of Malolos, Bulacan and Parish Priest of San Andres Apostol Parish, Norzagaray, and spokesperson for the organizations Alyansa ng Mamamayan para sa Pantangon Karapatan (ALMMA – People’s Alliance for Human Rights); Bulacan Ecumenical Association of Church People Offering Nationalism (BEACON); and the provincial chapter of the Promotion of Church People’s Response (PCPR). Within his roles he holds dialogues with the local Government and with the state forces regarding alleged human rights abuses and the widespread military deployment in the province. He also files complaints with the provincial office of the Commission on Human Rights. According to the information received, on 30 October 2005, between approximately 8:30

and 10:00 am, Fr. Rolando de Leon received envelopes containing bullets and threatening messages at the San Andres Apostol parish in San Andres Apostol, Norzagaray, Bulacan, Philippines. Previously, on 16 March 2005, a military agent (the name of whom was known to the Special Representative) was reported to have taken pictures of Fr. Rolando de Leon without his consent. The agent was questioned at the time by police but no further action was taken. The military are also reported to have accused Fr. Rolando de Leon of being a supporter of the communist armed group, the New People's Army. It was reported that the Government, in particular the Armed Forces of the Philippines (AFP) have taken no action in this regard. Concern was expressed that the recent threats, and the previous acts of intimidation, may have constituted sustained attempts to prevent Fr. Rolando de Leon from carrying out his work assisting victims of human rights violations in the Bulacan province.

### **Communications received**

430. In a letter dated 4 January 2006 the Government of the Philippines responded to the letter of allegation sent by the Special Representative concerning Mr. **Diosdado "Ka Fort" Fortuna** and Ms. **Victoria Samonte**. The Government stated that an initial investigation into the killing of Ms. Victoria Samonte revealed that her killing might not be related to her Anak-Pawis, Bayan Muna KMU ACT and Karapantan affiliations but could be connected to a dispute between the Castillo Bagong Lipunan Homeowners Association Inc. (CBLHAI) of which Ms. Samonte was President, and certain members of CBLHAI who had been declared defaulted, as well as illegal settlers occupying a lot owned by CBLHAI. Police authorities have recommended that the case of Mrs. Samonte be investigated further and the Commission on Human Rights is also conducting its own investigation.

### **Observations**

431. The Special Representative thanks the Government of the Philippines for its reply to her communication of 28 October 2005, but regrets that at the time this report was being finalized she had not received responses to her communications of 22 February 2005, 25 August 2005 and 2 December 2005. She looks forward to receiving more information concerning the investigations into the killing of **Victoria Samonte**.

## **Poland**

### **Communications sent**

432. On 5 December 2005, the Special Representative, together with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, sent an urgent appeal concerning the banning of public events organised by the lesbian, gay, bisexual and transgender community as well as discrimination against this community. According to information received, on 15 November 2005, the mayor of the city of Pozna banned a public event known as the **Equality March**, which had been organised by a number of lesbian, gay, bisexual and transgender (LGBT) and women's rights organisations. The march was planned to take place on 19 November 2005 and was intended to provide a platform for discussion about tolerance, anti-discrimination and respect for the rights of sexual minorities. The ban was issued on the grounds of security concerns, despite the fact that security measures had already been

agreed to between the municipality and the organisers of the march. Despite the ban, a few hundred protestors gathered on 20 November 2005 for a demonstration. The demonstrators were reportedly harassed and intimidated by members of a right wing group known as the All Polish Youth who shouted discriminatory slogans at them including 'Let's get the fags', and 'We'll do to you what Hitler did with Jews'. The police only intervened toward the end of the march to disperse the crowd. It is reported that in so doing the police roughly handled several individuals and arrested and interrogated over 65 persons, who were later released. Moreover, in November 2004, the Equality Parade was stopped when the police failed to protect the demonstrators from members of the All Polish Youth who blocked the event. In September 2005 a Warsaw court had declared illegal the decision of the Mayor to ban the Equality Parade. In light of the fact that Equality Parades had also been banned in Warsaw in June 2004 and in May 2005, concern is expressed that the banning of Equality March in Pozna was based primarily on intolerance towards the LGBT community in Poland. This is highlighted by the fact that political figures are reported to have publicly made homophobic statements. For example, when the Equality Parade of May 2005 was banned, Mr. Lech Kaczy, the current President of Poland and former Mayor of Warsaw, had stated that the parade would be 'sexually obscene' and offensive to other people's religious feelings. Less than a week after this parade was to take place, the Mayor authorised another march to take place during which members of the All Polish Youth reportedly shouted slogans inciting intolerance and homophobia. Other political figures were also reported to have made public homophobic statements, including that if 'homosexuals try to infect others with their homosexuality, then the state must intervene in this violation of freedoms'. Other public figures called for no tolerance for homosexuals and deviants and called on the public not to mistake the brutal propaganda of homosexual attitudes for calls for tolerance. Concern is further expressed in light of the recent abolition of the Office of the Government Plenipotentiary for the Equality of Men and Women which body was responsible, inter alia, for the promotion of equal treatment sexual minorities.

### **Observations**

433. The Special Representative regrets that at the time this report was being finalized, no response had been received from the Government of Poland to her communication of 5 December 2005 concerning the **Equality March**.

## **Russian Federation**

### **Communications sent**

434. On 20 January 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation concerning the **Council of the Non-Governmental Organizations** (SNO). According to information received, on 12 January 2005, at around 14:00, several men dressed in camouflage and masks and armed with sub-machine guns and shields, broke into the premises of the Council of the Non-Governmental Organizations (SNO). They claimed to be members of the Ingush branch of the Federal Security Branch (FSB). It was reported that the FSB men insulted the seven people present—four staff-members and three visitors, including a minor—and forced the men to lie down on the floor and the women to stand against a wall while holding them at gunpoint pending the arrival of an investigator. They reportedly searched the office, tore the

office phone's wire and photographed the identification documents of all those present as well as the statute documents of SNO. It is reported that when an investigator from the FSB Directorate for the Republic of Ingushetia arrived at the SNO office, he informed those present that the operation against the Press Center was being carried out on the basis of intelligence information that a group of bandits was occupying the offices concerned. The FSB personnel allegedly seized two computers for examination purposes, and told the Chair of the SNO, Taisa Isaeva, that she could come the following day to the FSB office to take back the computers. According to the information received, no warrant was ever produced in connection with the search and seizing of the office material. On January 13, Taisa Isaeva reportedly received a phone call from the FSB in Magas. She was informed that, pending further investigations, the computers could not as yet be handed back to SNO and that she would be informed of any further developments. Fear was expressed that the raid against SNO's Press Center may be in connection with its work in the defense of human rights, in particular, with its publication of information about human rights violations in the Chechen Republic and in the Republic of Ingushetia.

435. On 26 January 2005, the Special Representative, together with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture, sent an urgent appeal concerning **Makhmut Dchaparovic Magomadov**, a 51 year-old human rights lawyer, residing in Grozny, who has been preparing cases of human rights abuses for submission to the European Court of Human Rights, as well as working as a legal expert for several other national and international human rights non Governmental organizations. According to the allegations received, Mr. Makhmut Magomadov was abducted by a group of at least 15 armed men, speaking in Chechen and dressed in camouflage military uniforms in Grozny on 20 January 2005, at approximately 18:30. At the time, he was with his family on the way to the home of a friend in the Staropromyslovsky district of Grozny, near the "Elektropribor" electronics factory. While driving to the Staropromyslovsky district in his car, a "VAZ 2107" (license plate 702 07/rus), Mr. Magomadov was persistently followed by a metallic color car, a "Zhiguli", 10th model (VAZ-2110). Witnesses believe the perpetrators belong to the so-called "Kadyrovtsy", under the command of the Chechen First Deputy Prime Minister, Ramzan Kadirov. The "Kadyrovtsy" have been reportedly involved in cases of disappearance, torture and ill-treatment and extra-judicial executions. Witnesses report that the "Kadyrovtsy" came in several cars, among them was a steel-colour VAZ-2110 (part of the license number was 863), a white VAZ-2107 (part of the license number was 008, region code 95), a wine-red colour VAZ-21099, a "Niva" and a white GAZ-31029. Mr. Magomadov was reportedly taken in the white GAZ-31029, in the direction of the centre of Grozny. During these events, Mr. Magomadov's family was ill-treated, including his four year-old daughter. Despite inquiries with local authorities, no information on Mr. Magomadov's whereabouts could be obtained. An appeal was sent on 21 January 2005, to the Procurator of the Chechen Republic, Mr. Vladimir Krachenko, with copies to the General Procurator of the Russian Federation, Mr. Vladimir Ustinov, the Human Rights Ombudsman of the Russian Federation, Vladimir Lukin, and the Chair of the Presidential Human Rights Commission, Ella Pamfilova. It is reported that a criminal investigation was opened by the Ministry of Interior into his abduction. Until December 2004, Mr. Magomadov worked as an expert in the International Helsinki Foundation project, The Legal Protection of Individual Rights in the Russian Federation, aimed at training Russian lawyers and human rights activists in the use of international law. At the time of his abduction, Mr. Magomadov was working with NGOs on over 30 human rights cases, mainly concerning

disappearance, torture and ill-treatment, and extra-judicial executions, allegedly committed by Russian security forces. In view of his alleged detention in an unknown location, concern was expressed that he may be at risk of torture or other forms of ill-treatment. Concern was also expressed that he may have been targeted in connection with his legal work and human rights activities.

436. On 17 February 2005, the Special Representative, together with the Special Rapporteur on the question of torture, sent an urgent appeal concerning Mr. **Yakub Magomadov** and his family. The Magomadov family appealed to the European Court of Human Rights (ECHR) in 2001 on the alleged "disappearance" on 2 October 2000 of Mr. Aiubkhan Adamovich Magomadov, Mr. Yakub Magomadov's brother. According to the information received, in autumn 2003, Mr. Yakub Magomadov went to Tagangrog in the region of Rostov-on-Don to search for his brother. Reportedly, after he left the prison, men in uniforms pushed Mr. Yakub Magomadov into a car, took his money and beat him. It is alleged that they threatened him that he would "disappear" unless he stopped looking for his brother. Our information indicates that, on 2 April 2004, Mr. Yakub Magomadov left Chechnya for Moscow. It is reported that on 28 April 2004, a group of armed men in masks entered the house of the Magomadov family in Kurchaloy, asked Mr. Yakub Magomadov's 16 year-old nephew about his uncle, and beat him with the butts of their machine guns. They reportedly threatened to take him away, but one of the men stopped this attempt, stating that he was too young. On 16 May 2004, persons working for the Russian federal forces in the North Caucasus in Khankala informed Mr. Yakub Magomadov's family in Chechnya that Mr. Yakub Magomadov was held in Khankala and that he had been subject to torture. They gave the family a note, allegedly written by Mr. Yakub Magomadov, where he stated that he was in Chechnya. It is further reported that Mr. Yakub Magomadov's wife, who lived separately from him, was visited by two policemen in early May 2004, who questioned her. Mr. Yakub Magomadov's family does not have any official information concerning his whereabouts. Deep concern was expressed that the reported "disappearance" of Mr. Yakub Magomadov and threats and ill-treatment of members of his family may be in retaliation of their activity to defend human rights, through their appeal to the European Court of Human Rights (ECHR) on the alleged disappearance of Mr. Aiubkhan Adamovich Magomadov. This concern was further heightened in light of reports on harassment, threats and in a few cases killings of other ECHR applicants, or their relatives, whose appeals relate to alleged human rights violations in Chechnya.

437. On 22 February 2005, the Special Representative sent a letter of allegation concerning **Zura Bitieva**, her husband **Ramzan Iduev**, her sons **Idris Iduev** and **Eldar Iduev**, her daughter Luisa Bisieva and her brother Abubakar Bitiev. Zura Bitieva lodged a complaint with the European Court of Human Rights (ECHR) in May 2000 with regards to the alleged detention and ill-treatment of her and Idris Iduev in Chernokozovo "filtration camp" in early 2000. Zura Bitieva was a member of the Society for Russian-Chechen Friendship, a non-Governmental organisation who works on the human rights situation in Chechnya, and a member of the Committee of Soldiers Mothers, a non-Governmental organisation that works on the human rights situation within the Russian military. The Society for Russian-Chechen Friendship was subject of a letter of allegation sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture on

28 January 2004, an urgent appeal sent by the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 29 January 2004, an urgent appeal sent by 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 on 13 February 2004, a letter of allegation sent by the Special Representative of the Secretary-General on the situation of human rights defenders on 20 July 2004 and an urgent appeals sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the question of torture on 6 December 2004. According to the information received, on 21 May 2003, a group of 15 armed men in camouflage uniforms, who were believed to be Russian special federal forces stationed in the military base in Khankala, entered the house of Zura Bitieva and Ramzan Iduiev. The men allegedly killed Zura Bitieva, Ramzan Iduiev, Idris Iduiev and Abubakar Bitiev. Reportedly, they were all shot three times in the back of their heads, and their bodies were found with their hands and feet bound with adhesive tape and with their mouths sealed with adhesive tape. It was reported that these men also entered the house of Eldar Iduiev, and that he managed to hide and survive. The information received also indicated that Luisa Bisieva continued her mother's ECHR appeal and that she added the alleged killing of her mother to the appeal. Later, members of the Federal Security Service (FSB) allegedly questioned her and the relatives she was living with about her ECHR appeal, including on the reasons for her appeal. On one occasion she was reportedly threatened that she would be charged with illegal possession of weapons and helping Chechen armed opposition groups by delivering weapons. Deep concern was expressed that the reported killings of Zura Bitieva, Ramzan Iduiev, Idris Iduiev and Abubakar Bitiev and the reported harassment of Eldar Iduiev may be in retaliation of the human rights defence activity of Zura Bitieva and in particular her work as a member of the Society for Russian-Chechen Friendship and the Committee of Soldiers Mothers, as well as her ECHR appeal. Deep concern was further expressed that the alleged harassment and threats of Luisa Bisieva may represent attempts to prevent her human right defence activity by her work on this ECHR appeal.

438. On 17 May 2005, the Special Representative, together with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, sent an urgent appeal concerning Let's Save the Generation, in particular its head Mr. **Murad Hamidovich Muradov**. Let's Save the Generation is an NGO that provides humanitarian aid to orphans and child invalids who are mainly mine victims, and their families, and is a project partner of the United Nations Children's Fund (UNICEF), the World Health Organization (WHO) and the United Nations World Food Programme (WFP). According to the information received, on 15 April 2005, Mr. Murad Hamidovich Muradov was arrested by law enforcement agents, believed to be from the Federal Security Service (FSB), in his flat in Bogdan Khmel'nitsky Street 141, in the Ippodromniy micro-district of Grozny, Chechnya. Subsequent to his arrest, his whereabouts remain reportedly unknown. The information available states that the law enforcement agents seized one computer, three printers and two scanners belonging to Let's Save the Generation, a database of three thousand persons who have been permanently injured by mines, most of whom are children and teenagers, and NGO documents including its charter and financial reports. On 16 April 2005, a separate search was conducted at the house of Mr. Muradov's mother, during which additional documentation belonging to the NGO was seized. An appeal was sent to the Prosecutor of the Chechen Republic on the disappearance of Mr. Muradov. Concern was

expressed that the primary motivation of the alleged arrest and detention of Mr. Murad Hamidovich Muradov and the reported seizure of documents and equipment belonging to Let's Save the Generation may be to prevent the NGO to carry out its human rights activities.

439. On 18 May 2005, the Special Representative sent an urgent appeal concerning the alleged "disappearances" of Mr. **Rashid Borisovich Ozdoev**, a deputy procurator of the Republic of Ingushetia, and Mr. **Timur Yandiev**, a computer specialist. The reported "disappearance" of Mr. Ozdoev was already subject to an urgent appeal sent by the Chair of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture on 14 April 2004, to which your Excellency's Government replied by letter dated 30 June 2004. It is welcomed that measures have been taken to investigate the alleged disappearance of Mr. Ozdoev. According to the information received however, little progress has been made in locating his whereabouts and bringing the perpetrators to justice. Allegedly, in spring 2004, Mr. Ozdoev's father, a former judge, gave the General Procuracy a tape with a statement from an Ingush member of the Federal Security Service (FSB), who had admitted that he participated in the "disappearance" of Mr. Ozdoev. Another FSB officer reportedly admitted involvement in a "disappearance" of a local procurator in a letter to the General Procuracy published on 27 May 2004 in *Novaya Gazeta*. In a reply published on 2 August 2004, the Deputy Procurator General allegedly denied that these two men were FSB officers. It is reported that the current whereabouts of Mr. Ozdoev are unknown. The information received indicated that on 16 March 2004 at 4.30 p.m., Mr. Yandiev was leaving the office of his former employer Ingushenergo in Nazran when two cars allegedly stopped next to him, and five or six men in camouflage and masks forced Mr. Yandiev into one of the cars. It is reported that the cars belonged to the federal forces stationed in Chechnya. According to the information received, Mr. Yandiev's parents have turned to the local and federal procuracy and the President of Ingushetia to find out what happened to their son. They reportedly received a letter at the end of April 2004 from the Ingushetian Ministry of Justice, who informed that the procurator of Chechnya had been given the registration number of the two cars, but that he had not been given any information as to the identity of the people who were in the cars. Allegedly, the current whereabouts of Mr. Yandiev are unknown. We have been informed that Mr. Yandiev had helped Mr. Ozdoev to collect and distribute information via the internet concerning "disappearances" and killings allegedly carried out by FSB personnel. Given the lengthy period of time since the "disappearances" of Mr. Rashid Borisovich Ozdoev and Mr. Timur Yandiev, serious concern was expressed for their safety and for the lack of progress in bringing to justice those persons responsible for their "disappearances".

440. On 9 June 2005, the Special Representative, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of allegation concerning **Stanislav Dmitrievsky**, Director of the Nizhny Novgorod-based Russian human rights NGO Russian Chechen Friendship Society (**RCFS**), and its Deputy Director, **Oksana Chelysheva**. According to information received, on 18 May 2005 at a train station in Nizhny Novgorod, unidentified men attacked Stanislav Dmitrievsky, took his mobile phone, some money, destroyed his passport and his medical insurance certificate. He was later diagnosed with concussion. Since January 2005, other incidents and activities targeting RCFS and its staff were reported. These include the following, in January and February 2005, agents from the Russian Security Service (FSB) informed Mr. Dmitrievsky and Oksana Chelysheva that

criminal investigations had been brought against them on the basis that they had committed acts in violation of anti-extremism laws. The FSB claimed that RCFS' call for peace in Chechnya, as published in the Pravozashchita newsletter in collaboration with the Nizhny Novgorod human rights organisation, amounted to extremist material. Various members of both human rights organisations were questioned in this respect, as a result of which many disassociated themselves from the organisations out of fear for their safety. In the end, no charges were brought against them and investigations were transferred to the office of the prosecutor. In February 2005, both the registration and tax bureaus of the Russian Federation began audits of RCFS' activities. All bank accounts of RCFS were consequently seized following an order of the Tax Police. On 14 March 2005, Mrs. Chelysheva found a flyer which concerned her on her doorstep. The flyer was reportedly distributed all over her town. It had her home address on it and referred to her as 'shameful and contemptible', 'a beast', and a 'supporter of terrorists'. It also called upon the people to join in a fight against her. Together with RCFS, she filed a complaint with the police; no progress was made with the investigations. From February through April 2005, TV channels including RTR News of Privolzh'e, NTR, Volga and the APN news agency carried out a media campaign against RCFS branding it and its staff as being supporters of terrorism, and also further attempted to create a negative image of RCFS by showing videos of crimes committed by terrorists as a background to the commentaries on RCFS. The newspaper 'The Novoye Delo' also published commentaries made by representatives of the Prosecutor's office of Nizhny Novgorod and the FSB who claimed that RCFS and its staff had committed crimes including incitement to extremist activities and providing support to acts of terror. Concern was expressed that the reported pattern of harassment against RCFS and its staff might be a direct attempt to silence the organization and discourage its staff or anyone to participate in the organization's activities in the protection of human right and the promotion of peace.

441. On 21 June 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning the Association of Soldiers' Mothers of Saint-Petersburg. According to the information received on the night of 3 June 2005, the organization's office was broken into and robbed by unknown individuals. It is reported that the perpetrators stole three telephones, one fax machine, two USB-keys, which contained information on monitoring activities, and opened a safe in which they took a video-camera and a digital dictaphone. They tried to open a second safe in vain. It was reported that the perpetrators did not steal any of the valuable objects present in the office such as computers, printers, scanners, nor a box containing donations. Fear has been expressed that this robbery may have aimed at seizing some of the information and material linked to the human rights work of the organization. This incident follows a case launched on June 14, 2003 against the organization for providing background information for a Smena Newspaper article concerning physical and psychological torture of pupils in the Nachinov Military School which had been the subject of an urgent appeal sent on 25 September 2003 by the Special Representative of the Secretary General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. According to the information received, the lawsuit is still on going despite the fact that the Admiral of the Russian Fleet, had acknowledged that acts of physical and psychological torture had taken place and that the officers responsible for it had been punished. It is reported that the next hearing in this case is due to take place on 22 June 2005, before the Kuibychev Court of Saint-Petersburg.

442. On 3 August 2005, the Special Representative sent a letter of allegation concerning Ms. **Lyudmila Zhorovlya**, human rights defender, and her 21-year old son Mr. **Konstantin Zhorovlya**. According to the information received, on 21st July 2005, at approximately 6:00, Ms. Lyudmila Zhorovlya and her son Mr. Konstantin Zhorovlya were shot dead by one or a number of unidentified persons who called to her house in the city of Vorkuta, Republic of Komi, North of Russia. Ms. Lyudmila Zhorovlya assisted residents of the Vorkuta area in lawsuits brought against the city authorities concerning increases in utilities bills. In July 2004 Ms. Lyudmila Zhorovlya had reportedly filed an appeal which resulted in the annulment of the Mayor's Order No. 677 which allegedly obliged inhabitants of communal housing to pay overpriced rents. The decision in the case brought forward by Ms. Lyudmila Zhorovlya reportedly resulted in residents of the Vorkuta being reimbursed for the difference in rents. It is reported that in 2005 Ms. Lyudmila Zhorovlya started to investigate the reasons that had led to the overpricing in public utilities in the region. Concern is expressed that the killings of Lyudmila Zhorovlya and her son Mr. Konstantin Zhorovlya are related to her human rights work. It is reported that the work of Lyudmila Zhorovlya has been criticised in the past and she reported threats that she received in September and December of 2004 and January 2005. These threats allegedly increased from the 20th July 2005 after she reportedly promised to sue the city authorities over compulsory charges for television antenna.

443. On 15 November 2005, the Special Representative sent an urgent appeal concerning Mr. **Stanislav Dmitrievskii**, Executive Director of the human rights organisation the Russian Chechen Friendship Society (RCFS) based in Nizhnii Novgorod and Ms. **Oksana Chelysheva**, Deputy Director and editor. Stanislav Dmitrievskii and Oksana Chelysheva were the subjects of an allegation letter sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Representative of the Secretary-General on the situation of human rights defenders on 9 June 2005. The RCFS is a non-Governmental organization that monitors human rights violations in Chechnya and other parts of the North Caucasus. The RCFS, which has its head office in Nizhniy Novgorod and an office in the North Caucasus, produces the Pravo-zashchita newspaper ("Rights Protection") jointly with the Nizhniy Novgorod Human Rights Society. The RCFS also undertakes humanitarian initiatives for individuals affected by the conflict in the North Caucasus, for example organizing medical assistance and holiday breaks for children from the conflict zone in other parts of the Russian Federation. According to the new information received, an apparent campaign of harassment and prosecution aimed at members of the RCFS and particularly against its Director and Deputy Director continues:

(i) On 9 September 2005, leaflets threatening Stanislav Dmitrievskii and Oksana Chelysheva were distributed in a neighbourhood of the city of Nizhniy Novgorod where Stanislav Dmitrievskii, lives. One such leaflet posted on the door of Stanislav Dmitrievskii's flat, allegedly read: "We say no to the pro-Chechen vermin who live among us at our expense. Death to the enemy! We wait for you". The leaflet displays a symbol of the National Bolshevik Party (NBP) and telephone numbers of the head of the party in Nizhniy Novgorod and his deputy. It is alleged that this is a provocative act aimed at threatening Stanislav Dmitrievskii, Oksana Chelysheva and the RCFS, discrediting the NBP (which itself has come under sustained pressure from the authorities recently), creating tension between the two organizations and harming both. The Nizhegoroskii district police department opened a criminal investigation into these threats on 7 October 2005. It is reported that in March 2005, similar leaflets were found near the home

of Oksana Chelysheva. At that time a criminal case was opened however it was later suspended due to the fact that the procuracy has not identified the perpetrator. The RCFS has requested that this investigation be re-activated and combined with the investigation into the latest threatening leaflets against Oksana Chelysheva but reportedly this request has been denied.

(ii) On 9 September 2005 an article appeared on the website of Russkaia Linia, a nationalistic information agency, and on the website of Religiiia I SMI ("Religion and mass media"), calling Stanislav Dmitrievskii a "terrorist" and a "traitor to the fatherland". These comments were made in the context of criminal investigations into Stanislav Dmitrievskii's decision as editor-in-chief of Pravo-zashchita to publish articles written by a former Chechen separatist leader and his envoy. The materials under investigation concern an appeal by the late Chechen separatist leader Aslan Maskhadov published in the April-May 2004 edition, to the European Parliament. Maskhadov called for help in finding a peaceful settlement to the Chechen conflict; and an appeal in the March 2004 edition by Aslan Maskhadov's London-based envoy Akhmed Zakaev to the Russian people not to re-elect President Putin. Stanislav Dmitrievskii faces charges under Article 282.2(b) of the Russian Criminal Code which criminalizes: "...incitement of hatred or enmity, and likewise demeaning human dignity with regard to indicia of sex, race, nationality, language, origin, attitude towards religion, and likewise affiliation to any social group, committed publicly or with the use of the mass media... and with the use of his professional position." This crime carries possible punishment of up to 5 years' imprisonment. The main evidence for the criminal charge is based on two 'expert opinions' which were carried out on 18 January 2005 (by Larisa Teslenko from the Ministry of Justice) and 28 December 2004 (by Professor Kholysheva of the Academy of Military Sciences at the Defence Ministry). When charged under Article 282.2(b), Stanislav Dmitrievskii was reportedly made to sign a written undertaking not to leave the Russian Federation. As a result, he was prevented from attending a regional human rights defenders workshop in Baku, Azerbaijan in early September on the grounds that the Office of the Prosecutor would not be able to control his behaviour in Baku and that he might seek asylum. The preliminary hearing in the criminal case was held on 3 November before Judge Bondarenko at the court of Sovetsky district of Nizhnii Novgorod. It is alleged that at this hearing the court refused to accept a petition from the defence to remove evidence from the case gathered during questioning of Stanislav Dmitrievskii. The defence had argued that the evidence had been gathered when Stanislav Dmitrievskii was classified as a witness rather than as a suspect in the investigation, which limited his ability to prepare his defence as he did not have access to the paperwork of the case. While the criminal investigation began on 11 January 2005, it is alleged that Stanislav Dmitrievskii was first questioned as a suspect only on 11 August 2005, and was finally formally charged on 29 September 2005. The next hearing is set for 16 November 2005. It has also been reported that on 15 November 2005, trial observer Bill Bowring, a lawyer and professor of international law and human rights at the University of London and member of the executive committee of the Bar of England, has been denied entry into the Russian Federation by officers of the Federal Security Service. Bill Bowring holds a Russian visa which allows him entry to the Russian Federation at all times. Despite having letters of accreditation from the Bar of England and Wales and from Front Line, the Irish based International Foundation for Human Rights Defenders, Bill Bowring was given no reason for the denial of entry.

(iii) In addition, the RCFS is facing a total claim from the tax authorities of 1'000'561 roubles. In February 2005, the Federal Tax Inspection Office commenced an irregular audit of the RCFS accounts for the previous three years and confiscated the accounting and

registration documents of the organisation. It is reported that tax bodies have the right to carry out taxation audits once a year. The previous audit was conducted six months prior and no breaches of law or financial irregularities had been found. On 15 August 2005 the Federal Tax Inspection office of Nizhegorodski district claimed that the RCFS had violated Article 100 of the Tax Code in Resolution No. 25. The authorities allegedly began seizing money from the RCFS's accounts and their bank account was frozen. Furthermore, the organisation was unable to obtain access to their bank accounts until 4 October 2005. The RCFS applied for interim measures to an arbitration court in Nizhniy Novgorod. Their request was granted on 12 September 2005, ruling that all accounts of the RCFS should be frozen, pending the final decision in the Court. However the Federal Tax Inspection office ignored the 12 September 2005 ruling of the Arbitration court for more than two weeks. It has been reported that the Federal Tax Inspection office complied with the Arbitration court's ruling only after a further appeal was lodged to the Federal Service of Officers of Justice. It appears that the tax authorities in Nizhniy Novgorod are categorising as "taxable income" money donated to the RCFS by international donors towards carrying out human-rights related, conflict resolution and humanitarian projects. The RCFS is arguing that the tax authorities' claim is unlawful. A hearing at the arbitration court was held on 26 October 2005, during which the tax authorities requested materials from the criminal case against Stanislav Dmitrievskii, (referred to at point (ii) above), to be added to the case materials. It is alleged that the tax authorities have argued the relevance of the materials to the tax claim by stating that publication of articles which allegedly incite racial hatred or enmity cannot be said to be part of a conflict resolution project and therefore the money used to publish them is 'profit' and therefore, taxable. The RCFS asked for time to examine the request submitted by the tax authorities. The court therefore adjourned the hearing and set the next hearing for 16 November 2005, the same date as the next hearing in the criminal trial against Stanislav Dmitrievskii. It is reported that at the same time as the appeal was lodged, the RCFS submitted a complaint to the Federal Taxation Service of the Nizhniy Novgorod Region. It is reported that the RCFS received a letter from the Federal Taxation Service of the Nizhniy Novgorod Region on 14 October 2005 would not comply with the request of the organisation, and reference was made to the publication of the statements of two Chechen separatist leaders in the Pravozaschita newspaper. It is reported that the Federal Taxation Service of the Nizhniy Novgorod Region, by allegedly stating that the tax claims were connected to the publication in the Pravozaschita newspaper, indicates a political motivation behind the audits. Furthermore, it is alleged that administrative pressure is being imposed upon the judge of the arbitration court in this matter. The hearing scheduled for 26 October 2005 has been postponed to 16 November 2005. It is reported that the RCFS has requested international observers be present at the hearing which has been strongly opposed by counsel for the Federal Taxation Service.

(iv) It was reported that a criminal investigation under Article 199 (Part 2) of the Criminal Code ("tax evasion") was opened into the RCFS on 2 September 2005. This is a serious investigation into possible individual responsibility for the organisation's alleged failure to pay taxes. It is alleged that Stanislav Dmitrievskii only learnt about this criminal investigation on 23 September 2005 when he was ordered to appear on 6 October 2005 for interrogation at the Ministry of Interior at the Nizhniy Novgorod Regional Department as a witness to this case. Article 199 carries a possible prison sentence of two years.

(v) It was reported that the department of the Ministry of Justice that is responsible for the registration of non-Governmental organizations has recently renewed a claim, which had originally been lodged on 8 April 2005, to close the RCFS down on the grounds that the

organization failed in early 2005 to provide them with the original version of the financial documents necessary to carry out a check on the organization and its activities. However, according to the RCFS, it was not possible to provide the registration department of Ministry of Justice with the original documents at that time, as the documents had been submitted to the tax authorities in connection with tax authorities' investigation of the RCFS. The RCFS apparently informed the registration department at the Ministry of Justice of this and submitted the originals in June 2005, as soon as they were returned by the tax authorities. The RCFS considers that the registration department's claim does not make sense; rather, the organization believes that the claim has been politically motivated and is a further attempt to harass them. Due to repeated requests for postponement by the registration department of the Ministry of Justice, the claim was first considered in court on 25 October 2005, and the next hearing was scheduled to take place on 2 November 2005 but was postponed on the request of the RCFS. No date was set for the next hearing however, it is alleged that on afternoon of Friday 11 November 2005 the RCFS received notification by Judge Samartseva in a letter dated 3 November 2005, posted 8 November 2005 that the main hearing would be scheduled for 14 November 2005 at 10:00am. At the hearing on 14 November the Nizhniy Novgorod Region Court rejected the claim to close down the RCFS. Concern was expressed for the safety of Stanislav Dmitrievskii and Oksana Chelysheva given the threats they have received. Furthermore, concern is expressed that the criminal proceedings against Stanislav Dmitrievskii, the taxation proceedings against the organisation and the criminal investigation for tax evasion which may possibly result in Stanislav Dmitrievskii and Oksana Chelysheva's imprisonment, and the Ministry of Justice's attempt to de-register the organization, may represent a sustained campaign of harassment and prosecution to close down the organisation and prevent it from continuing its valuable work in the field of human rights.

444. On 21 November 2005, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of allegation concerning Mr. **Bill Bowring** (UA G/SO 214 (67-13) G/SO 214 (107-5), a lawyer and professor of international Law and Human Rights at the University of London and academic coordinator of the European Human Rights Advocacy Centre (EHRAC) in London. According to information received, on 15 November 2005, Bill Bowring was refused entry to the Russian Federation after being questioned by the Federal Security Service for more than four hours and having his passport and his ticket confiscated. He was refused entry despite having a valid Russian visa and letters of accreditation from the Bar of England and Wales and from Front Line, the Irish based International Foundation for Human Rights Defenders. On 16 and 17 June, Bill Bowring had already travelled to Nizhniy Novgorod in order to write a report on "The situation concerning the actions of state bodies in relation to the Society for Russian-Chechen Friendship" on behalf of the Bar Human Rights Committee on England and Wales (BHRC). Concern was expressed that the refusal to allow Bill Bowring to enter the country was connected to the fact that he was travelling to the Russian Federation in order to monitor the trial against Stanislav Dmitrievskii, the Director of Russian-Chechen Friendship Society (RCFS), an organization based in Nizhniy Novgorod that monitors human rights violations in Chechnya and other parts of the North Caucasus. Stanislav Dmitrievskii faces charges under the art. 282.2 (b) of the Russian Criminal Code.

### Communications received

445. On 21 June 2005, the Government replied to the communication of 20 January 2005. The Government stated that it has been established that in the course of work on the detection and prevention of the activities of bandit groups, Russia's Federal Security Service (FSB) Department for the Republic of Ingushetia received intelligence that an information centre of a group of bandits was located in apartment 25 at 21, Moskovskaya St., Nazran. The Government stated that nothing had been known about the location of human rights and other social organizations in this apartment. At around 2 p.m. on 12 January 2005, officers of the internal affairs bodies and FSB of Russia duly carried out passport checks in the aforementioned premises. The persons found in the apartment explained that the premises are rented by the Council of Non-Governmental Organizations (SNO) of the Chechen Republic. With the consent of those present, the constituent documents of SNO were studied and two computer system units belonging to the organization were taken away for inspection, and these were returned to it two days later. In connection with this matter the Nazran city procurator's office conducted an investigation, as a result of which it was decided, on the basis of article 24.1, paragraph 2, of the Code of Criminal Procedure of the Russian Federation (no corpus delicti) not to initiate a criminal case. On 22 April 2005 the Nazran city deputy procurator reversed this decision in view of the incompleteness of the investigative measures taken. Further verification of the materials was entrusted to the military procurator of troop unit No. 04062 after confirmation of the presence of K. Shvedov, an officer of the FSB Department for the Republic of Ingushetia, in the SNO premises. The Government stated that it had been established that the measures carried out by the law-enforcement officers were not related to the human rights activities of the SNO of the Chechen Republic and its publications in the media. No violations of the legislation in force were discovered.

446. On 27 July 2005 the Government of Russia responded to the communication of 17 February 2005. The Government stated that on 19 July 2004 the procurator's office of the Chechen Republic opened criminal case no. 44032 on the basis of evidence of an offence under article 126 (2), paragraph 2 (a), of the Criminal Code of the Russian Federation (Abduction). The criminal case was opened following a complaint from the High Commissioner for Human Rights of the Russian Federation, V.P. Lukin, following a complaint from the "Memorial" human rights centre in Moscow. In the course of this investigation it was established that **Yakub Adamovich Magomadov** left the village of Kurchaloy for Moscow on 2 April 2004 and that he contacted his relatives by phone on 19 April 2004, after which there was no further contact. On 29 April 2004, two armed unidentified individuals in camouflage uniform and masks carried out a search for Mr. Magomadov in Kurchaloy. On 16 May 2004 these two individuals gave relatives of Mr. Magomadov a note, allegedly from Mr. Magomadov, and a copy of his passport photograph. The man who brought the note told them that Mr. Magomadov was at the Khankala military base and that in order to secure his release, they would have to find someone else. Mr. Magomadov's relatives went to Khankala military base but were informed that Mr. Magomadov was not being held there. Mr. Magomadov's brother claimed that the note had been given to him by an officer of the Ministry of Internal Affairs of the Chechen Republic, Magomed Khozh-Akhmedovich Daudov. Mr. Daudov claimed that he did not know Mr. Magomadov. When questioned, Mr. Magomadov's mother, stated that her son Ayubkan had been abducted in 2000. Yakub Adamovich Magomadov had submitted an appeal on his brother's behalf to the European Court of Human Rights and had traveled to Chechnya to search for his brother. His mother stated that

Mr. Magomadov had told her that law enforcement officers in Moscow had advised him to less persistent in his search for his brother Ibragim Magomadov. She also said that she could not have telephoned the "Memorial" Human Rights Centre on 18 and 19 April 2004, as had been claimed. According to Ibragim Magomadov the last time his brother Yakub had been home was in April 2004. In mid-May 2004 the officer from Security Council of the President of the Chechen Republic known as Timur had gone to the Magomadovs with a note reportedly from Yakub Magomadov in which he wrote that he was in Chechnya. During the criminal investigation it was not possible to find this note and therefore confirm that it was in fact written by Yakub Magomadov. On 16 August 2004 the criminal case was referred to the Moscow procurator's office and the investigation department of the Federal Security Service of the Russian Federation is conducting a search for Yakub Magomadov in connection with the investigation. On 29 July 2004 criminal case no. 245 was opened against Yakub Magomadov on the basis of an offence under article 122, paragraph 2 of the Criminal Code of the Russian Federation.

447. By a letter dated 27 July 2005 the the Government responded to the communication of 22 February 2005 regarding **Zura Bitieva**, her husband **Ramzan Iduev**, her sons **Idris Iduev** and **Eldar Iduev**. The Government stated that on 21 May 2003 following the murder of Zura Bitieva and other residents of Kalinovskaya village in Naur district of the Chechen Republic, the Naur district procurator opened criminal case No.48023 on the basis of evidence of an offence under article 105 (2) of the Criminal Code (Murder of two persons, committed by a group of persons, by a group of persons by prior conspiracy or by an organized group). The Government stated that investigations and police work were underway to identify the persons who committed the crime. The Government also stated that no evidence had been found to support the claim that officers of the Russian Federal Security Service carried out investigations concerning the complaint that she lodged with the European Court of Human Rights. According to the Government, the procurator of the Naur district of the Chechen Republic carried out an investigation into the allegedly cruel treatment of Zura Bitieva and Ramzan Iduev by the staff of the remand centre IZ-20/2 in the settlement of Chernokovo in Naur district. Through this investigation it was established that Ms. Bitieva had been taken to the reception centre on 21 January 2000, where she was held until 26 February 2000. The Government stated that the journal of medical examinations contained no evidence that Ms. Bitieva had suffered bodily harm. On 17 February 2000, Ms. Bitieva was admitted to Naur central Hospital with a diagnosis of bronchial pneumonia and after completion of her treatment there, was discharged home. The Government stated that there was no evidence that Ramzan Ilduev was held in correctional institution IZ-20/2 in 2000. In connection with the foregoing, the Government stated that the Naur district procurator decided not to institute criminal proceedings on the basis of article 24 paragraph(1) of the Code of Criminal Procedure (Lack of evidence of a crime).

448. By a letter dated 15 August 2005 the Government responded to the communication of 18 May 2005 regarding **Rashid Borisovich Osdoev** and **Timur Yandiev**. The Government stated that on 14 March 2004 the procurator's office of the Republic of Ingushetia opened case No. 0480001 on the basis of evidence of an offence under article 126, paragraph 1 of the Criminal Code of the Russian Federation (abduction). The investigation revealed that on the morning of 11 March 2004 Mr. Ozdoev disappeared and had not been seen since then. In the course of the investigation Rashid Osdoev's father, B.O. Osdoev handed over an audio cassette tape, stating that it contained a recording of a conversation between his relatives and R.G: Sultygov, an officer of the Security Service of the Russian Federation from the Republic of Ingushetia, who

together with other officers of the Federal Security Service had allegedly taken part in Rashid Osdoev's arrest. When questioned during the pre-trial investigation R.G. Sultygov stated that he had nothing to do with Mr. Osdoev's arrest or abduction. The Government stated that attached to the case file of Rashid Borisovich Osdoev was an interview with I.N: Onishchenko, that had appeared in a number of press publications. I. N. Onishchenko was allegedly an FSS agent for Stavropol. In the interview I.N: Onishchenko stated that he had been directly involved in the abduction of Rashid Osdoev while on a mission to Ingushetia. Following an investigation it was revealed that I. N. Onishchenko had never been employed in that unit of the FSS: Aleksei Nikolaevich Onishchenko who is deputy chief of the Office of the Federal Security Service of the Russian Federation for the Northern Caususus in Budennovsk indicated that he had not gone on a mission to the Republic of Ingushetia and had not submitted a statement to the procurator's office. At the time of the reply the pretrial investigation had been suspended in accordance with article 208 paragraph 1 (1) of the Code of Criminal Procedure and efforts were underway to establish the whereabouts of Rashid Borisovich Odoev and the persons responsible for his abduction. With regard to the abduction of T. M. Yandiev, the Government stated that on 26 March 2004, an investigation into his disappearance was initiated. In the course of the investigation, it was revealed that on 16 March 2004 T. M. Yandiev was abducted by six unknown individuals in camouflage uniforms and masks and taken him to an unknown destination. In connection with the incident, enquiries and instructions were sent to the law enforcement agencies of the Republic of Ingushetia, the Chechen Republic and the Republic of North Ossetia-Alania. According to the replies received, their officers had not been instructed to detain Mr. Yandiev. As it was not possible to identify the whereabouts of Mr. Yandiev and the persons responsible for his abduction, the pretrial investigation was suspended. At the time of the reply, police inquiries were continuing into the matter.

449. On 20 September 2005, the Government replied to the communication of 21 June 2005. The Government stated that on 6 June 2005, in connection with a robbery at the office of the non-Governmental organization "**Association of Soldiers' Mothers of Saint-Petersburg**", criminal case No. 158447 was initiated on the basis of evidence of an offence (theft) under article 158 B.2 of the Criminal Code of the Russian Federation. As part of the work undertaken to solve this offence, the Main Department of Internal Affairs of St. Petersburg and Leningrad Oblast carried out a range of operational investigative measures, including the organization of checks on possible places of sale of the property stolen, and the questioning of 19 persons concerning involvement in the offence. On 6 August 2005 the procurator's office of the St. Petersburg central administrative district extended the preliminary investigation into the criminal case for three months. The Government stated that the investigation was considering all possible motives for the commission of the offence and that there were at present no grounds that would confirm the theory that the aim of this robbery was to obtain information and materials related to the organization's human rights activities.

450. On 20 June 2005 the Government of Russia replied to the communication of 9 June 2005. At the time this report was finalised, this reply was still in the process of being translated.

### **Reponses to communications sent in previous years**

451. On 28 February 2005 the Government replied to the communication of 6 December 2004. The Government informed that, during checks conducted by the Achkhoy-Martanov district

procurator, it was established that on 4 November 2004, while travelling along the Kavkaz highway towards Sernovodsk in the Chechen Republic, Ruslan **Seidrahmanovich Susaev** and his wife **Susanna Valentinovna Susaeva** were stopped by armed persons wearing camouflage and taken to the Achkhoy-Martanov district internal affairs office. After R. Susaev had been questioned concerning his involvement in the activities of illegal armed groups, the pair were released. No physical or psychological pressure had been exerted on them. Upon further questioning during the checking procedure, R.S. Susaev and S.V. Susaeva said that they had not contacted the law enforcement agencies and had no claims to make against anyone. Concerning the information contained in the appeal relating to a search carried out at the Susaevs' home on 28 August 2004, the beating of R.S. Susaev's mother and the arrest of his sons, R.S. Susaev stated that it was true that during the night of 28-29 August, unknown armed persons approached him in civilian clothes, but that they did not carry out any search, did not use physical force against him or the members of his family, and did not arrest his sons. Moreover, R.S. Susaev stated that his mother had died in 1985, and so she could not have been beaten in 2004. In the recent period the Susaev family have moved house three times, since R.S. Susaev is a forcibly displaced person and has no permanent home. They are currently living in Sernovodsk, Sunzha district. The repeated changes of residence are due to the Susaev family's difficult material circumstances, according to the Government, and not to any alleged pressure on R.S. Susaev to cease his human rights activities. S.V. Susaeva, the wife of R.S. Susaev, provided similar testimony on these matters. On 28 December 2004, following investigation of the alleged brutal treatment of R.S. Susaev and the members of his family, the Achkhoy-Martanov district procurator's office decided under article 24, part 1, paragraph 1, of the Code of Criminal Procedure of the Russian Federation not to institute criminal proceedings, on the grounds that no offence had been committed.

452. On 11 June 2005, the Government transmitted the following information in response to a communication sent on 14 September 2004, concerning the **Chechen Committee for National Rescue**. The Government stated that on 2 August 2004 the Procurator of the Republic of Ingushetia submitted 12 of the Committee's press releases to Nazran district court in the Republic of Ingushetia to decide whether they should be declared extremist in nature. The Government stated that no decision was issued because members of the Committee did not attend. The Government stated that there had also been complaints from the Nazran office of the Russian Federation Ministry of Taxes and duties. At the time of the reply, no criminal proceedings had been initiated against the Representatives of the Committee.

### **Observations**

453. The Special Representative thanks the Government of Russia for its responses to her communications. She reiterates her concerns regarding the personal safety and security of human rights defenders in the Russian Federation. Furthermore, she is concerned regarding the restrictions on freedom of association and expression allegedly being imposed on human rights organizations and the labelling of those connected with these NGOs as terrorists. She is also concerned by the use of taxation laws to harass these NGOS.

## Saudi Arabia

### Communications sent

454. On 26 January 2005, the Special Representative, together 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 promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal regarding Mr. **Mohamed Al-Raouchan**, editor-in-chief of the weekly Al-Mouhaid. He was arrested by security forces in Riyadh on 8 or 9 January 2005 and has been in detention since. He has not been allowed to have contact with a lawyer.

Mr. Al-Raouchan reportedly is a member of a legal defense team for Saudi Arabian citizens detained by the United States at Guantanamo Bay. Moreover, he had written articles in the magazine Al-Mouhaid urging the Saudi authorities to work harder to secure the release of these detainees. Concern was expressed that his arrest and detention may be a result of his activity on behalf of Saudi citizens detained at Guantanamo. Further concern was expressed because the charges against him were still not known and he had been denied access to a lawyer.

455. On 30 May 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning **Ali al-Domaini**, Dr. **Abdullah al-Hamid** and Dr. **Matruk al-Falih** who were already the subject of two urgent appeals of 26 April 2004 sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on torture and the Special Representative of the Secretary-General on the situation of human rights defenders, and of 19 March 2004 sent by 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 torture and the Special Representative of the Secretary-General on human rights defenders. According to information received, on 15 May 2005, they were sentenced to nine, seven and six years of imprisonment respectively for having circulated a petition calling for the establishment of a constitutional monarchy in Saudi Arabia and for having announced their intentions to set up an independent human rights monitor after having expressed dissatisfaction with the composition of a new government human rights organisation. Mr. Ali al-Domaini, Dr. Abdullah al-Hamid and Dr. Matruk al-Falih had have been under arrest since 16 March 2004, when, together with another ten political reformists, they were charged with incitement to unrest, attempting to disturb the peace, rebelling against the ruler, speaking to foreign media and incitement against the Wahhabi school of Islam. The ten other reformists were released after having pledged to refrain from further criticism of the Government, a pledge Ali al-Domaini, Dr. Matruk al-Falih and Dr. Abdullah al-Hamid refused to sign. Moreover, following their first hearing on 10 August 2004, which hearing was attended by international observers, family and supporters, the judges decided to hold the trial behind closed doors, claiming overcrowding. Finally, on 9 November 2004, one of the defence team lawyers Abd al-Rahman al-Lahim, was arrested for having criticised the closed-doors proceedings and is being detained at the al-Ha'ir prison in Riyadh. Three other members of the defence team, Abdullah ak-Nasiri, Sulaiman al-Rashudi and Abd al-Aziz al-Wahaibi, were dismissed by the court without being given any reasons thereof. Family members of the accused and journalists have reportedly also been detained.

### **Communications received**

456. In a letter dated 18 August 2005 addressed to the Special Rapporteur on the independence of judges and lawyers, the Government stated that Mr. **Ali ak-Domani**, **Abdullah al-Hamid** and **Matruk al-Falih** were released pursuant to the provisions of a royal amnesty proclaimed on 8 August 2005.

### **Observations**

457. The Special Representative thanks the Government of Saudi Arabia for its response to her communication of 30 May 2005 and welcomes the release of **Mr. Ali ak-Domani**, **Abdullah al-Hamid** and **Matruk al-Falih**. However, she remains concerned about the use by authorities of arbitrary arrests and detentions to inhibit the legitimate activities of human rights defenders. The Special Representative regrets that at the time this report was being finalized, no response had been received to the communication of 26 May 2005.

## **Serbia and Montenegro**

### **Responses received to communications sent in previous years**

458. On 25 May 2005, the Government of Serbia and Montenegro, replied to the Special Representative's communication dated 17 May 2004, concerning alleged attacks on journalists working for TV B92. The Government stated that on 4 May 2004, a complaint was filed on the Office of the Second Municipal Public Prosecutor against an unidentified person for the offences of coercion, obstruction of printing and distributing printed matter and broadcasting radio and television programmes and damage to items belonging to other persons, committed against **Masan Lekić**. Following preliminary investigations two suspects were interrogated and one of them made a statement, which, the Government stated, could not be considered exactly a confession, where he claimed that, the incident had been caused by Mr. Lekić's behaviour. Mr. Lekić was then called to identify the suspect but failed to do so. The police are still under instructions to take measures to identify the person who committed these offences.

459. On 25 May 2005, the Government of Serbia and Montenegro replied to the communication dated 31 March 2004 concerning alleged human rights violations against Mr. **Vladan Vlaković**, author of the book "Military Secret". The Government stated that Mr. **Vlaković** was charged under Article 224, (1) and (2), of the Basic Criminal Code (in force since June 7 2004) with the criminal offence of disclosing a military secret. At the time the communication was sent, the Military Court in charge of the prosecution was yet to fix a date for the main hearing. Moreover, the Government stated that on the order of the investigative magistrate, acting under Article 69 of the Basic Criminal Code, Mr. **Vlaković** had been subjected to a security measure of seizure of the following items: 472 copies of the book "Military Secret", Part II, 182 copies of the book "Military Secret", Part II, a personal computer with 2 CD-Roms and 2 Floppy disks, 53 graphite plates size B2 and 1 CD ROM compact disc with the written words "Newspaper Copy, Parts I and II". This confiscation had taken place on the premises of the Serbian Helsinki Committee For Human Rights, and on the premises of the "Zagorac" Printing Shop, the printers of the book. The Government stated that appropriate records were made and certificates of the seizure issued.

460. On 25 May 2005, the Government of Serbia and Montenegro, replied to the Special Representative's communication dated 30 September 2004 concerning Ms. **Svetlana Djordjevic**. The Government stated that on 27 June 2004, Svetlana Djordjevic was admitted to Vranje General Hospital following an attack by an unknown person with a syringe. Following her admission to hospital, the incident was reported to the Vranje Police Department, which took necessary measures to investigate it. To verify the allegations Svetlana Djordjevic was interviewed by police on 29 June 2004. On this occasion according to the Government, she stated that she felt very well and would not have reported the incident had she known that it was to be followed by so many checks and such extensive involvement of so many people. In its report of 7 October 2004 the Vranje Police Department wrote that Svetlana Djordjevic had contacted Vojkan Krstic, owner of Grafika Krstic printing shop who allegedly told her that during the night of 25 and 26 July 2004 he had been beaten up because he had begun to print her book without her knowledge and approval. The Vranje Police Department checked these allegations and established that Vojkan Krstic and Grafika Krstic did not exist. The report from Vranje General Hospital indicated that Svetlana Djordjevic's blood test revealed traces of diazepam, a tranquiliser, but this concentration would not have affected her health. Svetlana Djordjevic was provided police protection from 9 July 2004 to 29 August 2004 and no threat was made against her life in that period. On 29 August 2004 she left for Belgrade and on her personal request the Minister of Internal Affairs of the Republic of Serbia ordered the removal of police protection. At the time of the reply, the case was pending in the office of the Municipal Public Prosecutor of Vranje and a request had been made to the Vranje Police Department to trace the perpetrator of the criminal offence.

461. On 3 August 2005, the Government of Serbia and Montenegro, replied to the Special Representative's communication dated 22 December 2003 related to the alleged threats against **Goran Stoparic**, a former member of the Serbiab security forces' Anti Terrorist Unit. The Government stated that on 12 December 2003 the President of the District Court of Belgrade issued an order to the effect that special protection measures be taken to protect Goran Stoparic. The said order was to be valid for 60 days beginning on 15 December 2003 and it was further extended by 30days on 13 February 2004. The Government stated that the Ministry for Internal Affairs had provided appropriate police escort for the witness's trip to the Netherlands to testify before the International Criminal Tribunal in the Hague.

### **Observations**

462. The Special Representative thanks the Government for its replies and looks forward to receiving further information regarding on-going investigations.

## **Sierra Leone**

### **Communications sent**

463. On 4 August 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent and urgent appeal concerning Mr. **Harry Yansaneh**, former acting editor of the newspaper For di people, member of the Sierra Leone Chapter of Amnesty International and of the National League for Human Rights, who died on 28 July 2005. Yansaneh was the subject of an allegation letter sent to

the Government by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 20 May 2005. According to the information received, on 10 May 2005, Harry Yansaneh was severely beaten and threatened with death in his office in Freetown by unknown persons. The equipment of the newspaper was also vandalized. The attackers were allegedly linked to a Member of Parliament for the ruling Sierra Leone People's Party and a Member of the Parliament of the Economic Community of West African States whose name is known to the Special Rapporteur and Representative. It has also been reported that this individual is also the owner of the building housing For di people, a newspaper that has often criticized Government's action. Following the attack, Mr. Yansaneh made a formal report to the Central Police Station in Freetown and the Sierra Leone Association of journalist subsequently lodged a formal complaint to the Ombudsman of Sierra Leone who referred the matter to the Speaker of Parliament. In spite of these steps, it is reported that no serious investigation was commenced by relevant authorities. On 11 May 2005, Yansaneh received medical treatment but his health continued to deteriorate. In early June he was admitted for eight days at a Freetown hospital and again in July where he died on 28 July 2005. It was reported that the causes of his death are related to kidney dysfunction ensuing from complications from the injuries he sustained from his beating.

### **Observations**

464. The Special Representative regrets that at the time this report was being finalized, no response had been received from the Government of Sierra Leone.

## **Sri Lanka**

### **Communications sent**

465. On 7 January 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture, sent an urgent appeal regarding Mr. **Uswatta Liyanage Anthony Joseph Perera**. He is a member of a human rights organization, which is active in combating torture and child abuse, and provides assistance to victims in obtaining legal advice and medical attention. On 3 December 2004, Special Representative together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture drew the attention of the Government to death threats received by Mr. Joseph Perera during November 2004, in particular on 22 November 2004. According to allegations since then received, on 16 December 2004, between 5.30 and 5.45 p.m., Mr. Perera was riding home on his motorcycle with his grandson, when two persons stopped him at a location close to his house on the Weligampitiya-Batagama Road. One of the two persons directed a gun towards Mr. Perera and demanded that he stop his human rights work. He reminded Mr. Perera of the previous threats and asked whether he had taken those lightly, advising him that this was the last warning. The two persons then got on the motorcycle by which they had reached the location and sped towards Weligampitiya, towards the Colombo-Negombo Road. The number plate of their motorcycle could not be recognized, as it was covered with dark paper. Concern was again expressed that the threats against Mr. Joseph Perera may be aimed at preventing him from further assisting Mr. Lalith Rajapakse, an alleged torture victim,

who was the subject of an urgent appeal by the Special Rapporteur on torture (E/CN.4/2004/56, Add. 1, para. 1509).

466. On 3 October 2005, the Special Representative sent an urgent appeal concerning Ms. **A.I. Kanthi Lanka**, member of the Organisation for the Defence of Human Rights in Galle, Sri Lanka. According to the information received, on 7 September 2005, at approximately 08:15, Ms. Lanka was allegedly threatened by three unknown men who approached her at the Gonapinuwela bus stop in Galle and reportedly said to her: “Your name is Lanka, isn’t it? We heard that you have meddled in the Saralankara School case. You’d better immediately withdraw yourself from the case or you will be in big trouble. We will not even hesitate to commit murder, if needed .... The Principle of that school is a relative of Minister ... (the name of the Minister is known to the Special Representative). Don’t get involved in the case. We will also meet with the boy”. The case to which they referred is that of a 16-year old boy who suffers from epilepsy, who was allegedly physically assaulted by a school teacher on 3 May 2004 and had reportedly been suspended from the school by the principal. Ms. Lanka, a human rights activist, was helping the 16-year old boy’s family to obtain justice. The family of the boy were reportedly under pressure from the school to withdraw their complaints following this incident. Concern was expressed that the threats against Ms. Lanka were aimed at preventing her human rights activities in assisting the 16-year old boy and his family in their complaint against the school. Furthermore, concern was expressed for the safety and physical integrity of Ms. Lanka following this threat.

467. On 27 October 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning the **Human Rights Commission’s** (HRC) headquarters in Colombo. The HRC is a national human rights institution that investigates complaints of alleged human rights violations. It is responsible for reviewing legal procedures that are in place, to ensure compliance with the Constitutional guarantees of fundamental rights, and, for advising the Government in the formulation of legislation and the administrative procedures for the protection of fundamental rights. According to the information received, on 12 October 2005, at daybreak, the HRC headquarters were raided and searched by unknown individuals. During the raid it is alleged that files were destructed and documents relating to investigations carried out by the organisation were set on fire. It is reported that petrol was also poured throughout the office. Members of the HRC filed a complaint at the nearest police station and the Criminal Investigations Department (CID) is reportedly leading the investigation into the incident. Concern was expressed that the raid on the HRC offices constituted an attempt to prevent the organisation from carrying out its human rights activities, in particular its investigations into complaints of alleged human rights violations carried out by the executive and administrative services, and specifically by the police.

468. On 2 November 2005, the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning death threats against **W. R. Sanjeewa**, a lawyer representing victims of torture and extrajudicial killings. According to the information received, Mr. W. R. Sanjeewa is a lawyer appearing on behalf of a number of Sri Lankans claiming to be the victims of torture by police officers in cases currently pending before various courts in Sri Lanka. Several police officers accused of torturing Mr. Sanjeewa’s clients have approached him, personally or by phone,

requested him move his clients to withdraw their torture complaints, and threatened him and his clients. On 22 October 2005, Mr. Sanjeewa lodged a formal complaint which was recorded at the police headquarters in Colombo. He had previously written a formal letter to the Inspector General of police with copies to the Attorney General regarding the threats received. It was understood that Mr. Sanjeewa's report to the police of 22 October 2005 identifies the names of the police officers. However, the police appear not to have taken any action to investigate the threats or to protect Mr. Sanjeewa. The threats against Mr. Sanjeewa and the alleged inaction by the police in response thereto gave rise to the preoccupation that his life might be at risk. These concerns were reinforced by the fatal shooting of torture victim Gerald Marvin Perera, who had insisted on legal action against the policemen who tortured him notwithstanding threats aimed at making him desist, and by the recent arson attack against the Human Rights Commission's headquarters in Colombo.

### **Communications received**

469. On 21 February 2005, the Government replied to the communication of 7 January 2005 concerning Mr. **Uswatta Liyanage Anthony Joseph Perera**. The Government stated that the Criminal Investigation Department, following the receipt of this communication, commenced an investigation into the alleged death threats received by him. While investigations were still undergoing at the time this reply was sent, action had already been taken to provide police protection to Mr. Joseph Perera including around the clock police protection at his house.

### **Observations**

470. The Special Representative thanks the Government for its response to her communication of 7 January 2005 but regrets that at the time this report was being finalized she had not received responses to her other communications of 2005. She welcomes the measures that have been taken to provide protection for **Uswatta Liyanage Anthony Joseph Perera** and looks forward to receiving information regarding the investigations that are being undertaken.

## **Sudan**

### **Communications sent**

471. On 25 January 2005, the Special Representative sent an urgent appeal concerning Dr. **Mudawi Ibrahim Adam**, the Chairman of the Sudan Social Development Organisation (SUDO), who was already the subject of an urgent appeal sent by the Special Representative, the Chairperson Rapporteur of the Working Group on arbitrary detention, and the Special Rapporteur on Torture on 6 January 2004 and two urgent appeals sent by the Special Representative, the Chairperson Rapporteur of the Working Group on arbitrary detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 23 February 2004 and 12 May 2004. According to the information received, Dr. Mudawi Ibrahim was arrested at his home in Uraba, Kordofan State, at 02:00 a.m. on 24 January 2005. He was now reportedly held in the security headquarter of Umrouaba city where he awaited interrogation by the National Security Forces. Concerns have been expressed that Dr. Mudawi Ibrahim's arrest may be connected with his work on human rights in particular with SUDO, an organization which has been active in Darfur. Concerns are heightened by the

fact that on 28 December 2003, Dr Mudawi was reportedly already arrested in Khartoum after he visited Darfur in the course of his work for SUDO and later charged with crimes against the state that carried the death penalty in connection to his human rights activities. All charges against him were dropped on 7 August 2004.

472. On 24 February 2005, the Special Representative, together with the Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the question of torture, sent an urgent appeal regarding Mr. **Abdella Souliman Shaibo**, aged 46, Zaghawa tribe, Sheikh (tribal leader), an internally displaced person (IDP) from the Outash camp n° 2, North of Nyala. According to the information received, on 21 February 2005, security forces inside the Outash IDP camp n° 2, North of Nyala, arrested Mr. Abdella Souliman Shaibo and took him to the police station in the camp. Reportedly, on 22 February 2005, Mr. Shaibo's family went to visit him at the police station but they were informed that he had been transferred to Nyala Police station. His family went to the police station and to the office of the National Security and Intelligence in Nyala, but Mr. Shaibo was not to be found there and his whereabouts remain unknown. It is further reported that Mr. Shaibo's arrest is connected with the fact that he provided information to an NGO in Nyala regarding the rape of three women and two girls by Janjaweed militias on 17 February 2005, near the Outash IDP camp. In view of the alleged detention of the above-named individual at an undisclosed or unconfirmed location, concern was expressed that this person may be at risk of torture or other forms of ill-treatment.

473. On 25 February 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Dr. **Mudawi Ibrahim Adam**, a human rights defender and chairman of the Sudan Development Organisation (SUDO), who has already been the subject of urgent appeals sent by the Special Representative, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 25 January 2005 and by the Special Representative, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the question of torture on 23 February 2004 and 12 May 2004. According to information received, on 24 January 2005 Dr. Mudawi Ibrahim Adam was arrested, without charge, at his home in Kondua, North Kordofan state, northern Sudan, by members of the Sudanese National Security and Intelligence Agency. Since 19 February 2005, Dr. Mudawi Ibrahim Adam has been on hunger strike, requesting that he be either charged or released. Other than a brief visit from his wife on 23 February 2005 while Dr. Mudawi Ibrahim Adam was being detained at Kober prison, he is being kept incommunicado at an unknown location in Khartoum, reportedly at a private house in a room with no windows. His relatives have not been provided with any information concerning the reasons for the arrest. He was reportedly refused access to medical attention despite the fact that his health has considerably deteriorated because of his hunger strike. Concern was expressed that Dr. Mudawi Ibrahim Adam's arrest and detention may be connected with his work as a human rights defender in Sudan and with his contacts with international NGOs. Concern was moreover expressed with regards to his reportedly critical health condition.

474. On 11 May 2005, the Special Representative sent an urgent appeal regarding the situation of Dr. **Mudawi Ibrahim Adam**, human rights defender and Director of the Sudan Social Development Organisation (SUDO), his colleague **Yasir Saleem**, and his driver **Abdalla Taha**.

Dr Mudawi has already been the subject of urgent appeals sent by the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, on 25 February 2004; by the Special Representative on 25 January 2005; by the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, on 12 May 2004 and 23 February 2004; and by the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the question of torture, on 6 January 2004. According to the information received, on 8 May 2005, at approximately 11 am, on Gober Bridge in Khartoum North, Dr Mudawi Ibrahim Adam was arrested, together with Yasir Saleem and Abdalla Taha. He was reportedly taken to a security detention facility in Khartoum North where he was interrogated. According to the reports received, Dr Mudawi is being held at the Office of the Special Prosecutor for Crimes Against the State, Khartoum 2. The Special Prosecutor has opened a file against Dr Mudawi relating to articles 53 (spying against the country) and 57 (entering and photographing military areas and works) of the Criminal Act 1991. Concern was expressed that Dr. Mudawi Ibrahim Adam's arrest and detention may be connected with his work as a human rights defender in Sudan and with his contacts with the international NGO community. Dr. Mudawi was scheduled to fly to Ireland on 9 May 2005 to receive an award from the President of Ireland, on behalf of an international human rights organisation, for his human rights work.

475. On 6 September 2005, the Special Representative, together with the Special Rapporteur on the question of torture sent an urgent appeal concerning **Abu Alabass Mohamed Hassan**, 22 year old student at Alahlia University, Omdurman. According to the allegations received, on 22nd August 2005, at approximately 11:00am, security officers and members of the National Congress Party Student Militia wing kidnapped Abu Alabass in front of the Alahlia University and forced him into a waiting car. He was then taken to a house not far from the University where the kidnappers inserted a bottle of mineral water into Mr. Abu Alabass's anus, beat him all over his body and threatened to rape him. The kidnappers also shaved Mr. Abu Alabass's head, his moustache and made him sign unknown documents. They also demanded that Mr. Abu Alabass give up his student activities and join the National Congress Party. On 23rd August 2005, at approximately 01.00 a.m., Abu Alabass was blindfolded, driven from the house and abandoned in a derelict area of Omdurman. He is currently receiving medical treatment for his injuries receiving medical treatment at the Amel Centre for the Treatment and Rehabilitation of Victims of Torture. It was reported that Abu Alabass had been calling for the re-establishment of the University Student Union. Concern was expressed that he may have been subjected to torture as a result of these activities.

476. On 16 November 2005, the Special Representative sent an urgent appeal concerning, a number of provisions contained in the provisional Presidential Decree, entitled "**Organization of Humanitarian Work Act, 2005**", signed on 4 August 2005 and due to be presented to the Parliament for ratification this month. According to the information received the Decree requires that all new and existing organizations, unions, associations, non-Governmental or national semi-Governmental local organizations in the Sudan register with a newly established "General Registrar of Organizations" which will be appointed by the President. Concern has been expressed that the limited independence of the new body from the executive and its wide-ranging powers for the purpose of registering, regulating and sanctioning organizations may result in

arbitrary and politicized processes. Concern was expressed with particular reference to the powers granted to the new body in connection with accepting or denying registration which do not provide sufficient guarantees for a fair and independent process and may result in the arbitrary denial or cancellation of an organization's registration. In particular it was noted that the provisions for the rejection of registration set by chapter 2, section 11 (1) and (2) remain particularly broad and may result in arbitrary or politicized interpretations. Concern was also expressed that the authority given to the registrar, under chapter 2, (10), to cancel registration without judicial review if it assesses fraud or a violation of the law on the part of the organization. Attention was also drawn to the far-reaching regulatory powers granted to the new body and concern was raised that they may result in undue interference within NGOs internal operations and limit their space for work. It was noted that chapter 3, (14) authorizes the Registrar to scrutinize the work of NGOs by "requesting any information or data concerning [its] work and examine records" ; "supervising the election of federal civil society organizations", and to "form administrative investigative committees to investigate into violations". Furthermore, the act strictly regulates the organization of the work of civil society organizations and provides the Government with broad supervisory powers which may unduly infringe on their autonomy to organize and coordinate their work as they deem appropriate. In particular, deep concern was expressed at the extensive powers to sanction organizations and individuals without due judicial review granted to the Registrar and the General Commissioner for Humanitarian Work heading the Humanitarian Aid Commission. In this respect, it was noted the powers granted to the Registrar to suspend NGO activities, dissolve their executive committee and replace it with a transitional committee, cancel registration, and expel International NGOs from the Sudan upon approval from the Minister. Concern was also expressed regarding the provisions allowing the General Commissioner for Humanitarian Work, upon approval by the Minister, "to expel any foreigner appointed by an INGO"; "Dismiss any member of any national organization or charity institution [...]"; "prohibit any member from practicing any kind of public voluntary activities for a period he deems necessary". Concern was also expressed regarding the provision which stipulates that in the case of the cancellation of registration of an organization "all assets and properties of the organization [...] should go to the ministry of Humanitarian Affairs." According to the information received, the Act also restricts access to funding for registered civil society and human rights organizations. It was reported that under chapter 9, Art. 36, organizations cannot receive funds or donations from outside the country or from any foreign person inside the country or from any other body without specific approval from the Ministry. While it was recognized that it is within the ambit of States' authorities to regulate the operation of foreign and local humanitarian and human rights organizations within the state, grave concern was expressed that the framework laid out in the provisional Presidential Decree may result in the undue restriction of legitimate activities for the defense of human rights in the Sudan. In particular, I am concerned that the establishment of a President-appointed General Registrar of Organizations, with wide control over the registration of civil society organizations may result in a politicized process and prevent the establishment of legitimate human rights organizations. In this respect, I would like to draw the attention of the Government to the Declaration on Human Rights Defenders, adopted by consensus by the United Nations General Assembly on 9 December 1998, especially article 5b, which provides that "everyone has the right, individually or in association with others, to form, join and participate in non Governmental organizations, associations or groups," , article 6c, which provides that "everyone has the right, individually or in association with others to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, though these and other

appropriate means, to draw public attention to those matters" and article 13, which provides that "everyone has the rights, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the [...] Declaration". The Government was called on to review the current Decree to ensure its compliance with international norms and standards pertaining to freedom of association. The Parliament was asked to refrain from adopting any laws that would be contrary to such established norms and principles. In this context the attention of Government was drawn to the General Assembly report (A/59/401) published in 2004 which establishes a review of legislations regulating freedom of association and provides some tools to ensure compliance of national law with international standard on freedom of association.

### **Communications received**

477. With a letter dated 10 March 2005, the Government transmitted the following information concerning Dr. **Mudawi Ibrahim Adam**. The Government stated that Dr. Mudawi Ibrahim Adam's detention took place on 27 January 2005 as a result of having arranged to establish an illegal movement. He was released on 3 March 2005 after 30 days in accordance with the provisions of the National Security Act since no charge was brought against him. He was allowed visits from his family, doctors and lawyer while in detention.

### **Responses received to communications sent in previous years**

478. On 20 October 2005, the Government replied to the communication of 8 January 2004 concerning Mr. **Waiel Taha**. The Government informed the Special Representative that Mr. Taha was arrested by the District Attorney following allegations that he had assaulted his supervisor at Khartoum University. He was subsequently charged under articles 68 (Disturbance of public peace), 77 (Public nuisance), 143 (Criminal force), 143 (Criminal force) and 182 (Criminal mischief) of the 1991 Criminal Act.

479. On 20 October 2005, the Government replied to the communication of 5 February 2004 concerning the arrest of human rights activist Mr. **Salih Mahmoud Osman**. The Government confirmed that Mr. Osman was arrested on 1 February 2004. Following investigation, his involvement in activities aiming to support the rebellion in Darfur was reportedly proved. According to the information received, Mr. Osman, was treated humanely while in detention, and visits by his family were guaranteed. He was released on 4 September 2004.

### **Observations**

480. The Special Representative thanks the Government of Sudan for its responses to her communications concerning **Mudawi Ibrahim Adam** and concerning **Waiel Taha** and **Mr. Salih Mahmoud Osman**.

481. While she takes note of the Government's position, she remains deeply concerned regarding the situation for human rights defenders in Sudan, and is particularly worried about the impact that the **Organization of Humanitarian Work Act, 2005** may have on human rights defenders and their activities.

## Syrian Arab Republic

### Communications sent

482. On 17 January 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal regarding Mr. **Habib 'Isa**, a lawyer, aged 62, and Dr. **'Aref Dalilah**, aged 64. According to the allegations received, Mr. 'Isa is suffering from chronic back pain and is in need of a hernia operation. Dr. Dalilah has developed a serious heart condition which requires an operation, possibly to fit a pacemaker. They were, and had been for a long time, in solitary detention. Mr. 'Isa and Dr. Dalilah are two of the six men who were arrested in 2001 and subsequently tried and convicted for their involvement in the pro-democracy and human rights movement known as the "Damascus Spring". Mr. 'Isa was sentenced to five years imprisonment, and Dr. Dalilah to ten years. It is alleged that both Mr. Isa and Dr. Dalilah were beaten severely by prison guards in May 2002. In view of their alleged prolonged detention in solitary confinement, concern is expressed that they may be at risk of torture or other forms of ill-treatment. Moreover, concern was expressed for their physical and mental integrity if they did not receive prompt and adequate medical treatment.

483. On 19 January 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding Mr. **'Abd al-Karim Dha'oun**, a trustee of the Committee for the Defence of Democratic Liberties and Human Rights (CDDLHR). According to the information received, Mr. 'Abd al-Karim Dha'oun was arrested on 12 September 2004 in connection with a report on conditions inside a prison in Hama he had written as a health inspector. He was reportedly on trial before the Hama Criminal Court. Concern was expressed that Mr. 'Abd al-Karim Dha'oun may be on trial and might be convicted and sentenced to imprisonment for having reported on detention conditions that violate international human rights standards.

484. On 26 May 2005, the Special Representative, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal concerning Mr. **Mohamed Raadoun**, lawyer and the head of the Arab Organization for Human Rights in Syria. According to the allegations received, on 22 May 2005 at around 11 a.m., four officers of the Political Security forces arrested Mr. Raadoun in his office at Latakia. He was informed that his apprehension was taking place under the Emergency Law. However, he was neither informed of the charges against him, nor was he shown an arrest warrant or other document authorizing arrest. Mr. Raadoun was transported to Damascus, where he was held by the Central Political Security Section. On 23 May the Central Political Security Section handed him over to the Military Judiciary. The Military Judiciary, however, stated that there were no charges pending against Mr. Raadoun. In the morning of 24 May he was transferred again into the custody of the Central Political Security Section in Damascus, where he is still detained. Mr. Raadoun is denied access to a lawyer and all other contact with the outside world. Fears have been expressed that the detention of Mr. Raadoun may be linked to his activities as a human rights defender in particular his role in defending detainees, his participation in demonstrations calling for the guarantee of general freedoms in Syria as well as

his public statements pointing at the failure of the Syrian authorities to guarantee freedom in the country. In view of his alleged incommunicado detention, we are concerned that he may be at risk of torture or other forms of ill-treatment.

485. On 1 July 2005, the Special Representative, together with the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent an urgent appeal concerning **Muhammad Ra'dun**, 56, lawyer and Head of the Arab Organization for Human Rights (AOHR-S) and **Nizar Ristnawi**, human rights defender and founding member of the same organization. Muhammad Ra'dun was also the subject of a communication sent on 26 May 2005 by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders. According to the allegations received, on 18th April 2004, Nizar Ristnawi was arrested. His family was not informed of his arrest until two weeks later when the Military Security told them that they were holding him. He is currently being held incommunicado and without charge at the Military Security branch of Hama. Muhammad Ra'dun has now been transferred to 'Adra Prison, near Damascus, where he is in solitary confinement and is awaiting trial before the Supreme State Security Court on charges of "disseminating false information" and with "involvement in an illegal organization of an international nature". If convicted he faces more than three years' imprisonment. Fears have been expressed that the detention of both Muhammad Ra'dun and Nizar Ristnawi may be linked to their activities as human rights defenders and in particular their role in defending detainees in Syria. In view of the alleged incommunicado detention of Nizar Ristnawi, concern was expressed that he may be at risk of torture or other forms of ill-treatment.

486. On 4 August 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture sent an urgent appeal concerning Yassin al-Hamwi, 60 years old, shopkeeper, and Muhammad 'Ali al-'Abdullah, law student, both founding members of the newly established Committee of the Families of Prisoners of Opinion and Conscience, Darya. According to the allegations received: **Yassin al-Hamwi** and **Muhammad 'Ali al-'Abdullah** were arrested by security forces on 26th and 27th July 2005, respectively, in the town of Darya, near Damascus. The arrests came within days of holding the first meeting of the Committee of the Families of Prisoners of Opinion and Conscience on 25th July. Yassin al-Hamwi was arrested at his shop in Darya. The Committee meeting had been held at his house and he had apparently been summoned for questioning by the Darya police one hour after the meeting ended. Muhammad 'Ali al-'Abdullah was arrested at his home in Qatana, near Damascus. Both men are currently being held incommunicado. In view of the alleged incommunicado detention of Yassin al-Hamwi and Muhammad 'Ali al-'Abdullah, concern is expressed that both men may be at risk of torture or other forms of ill-treatment. Concern is further expressed that both men may have been arrested in an attempt to hinder their human rights activities.

487. On 5 September 2005, the Special Representative, together 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 promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture sent an urgent appeal concerning **Riad Drar al-Hamood**, an Arabic language teacher and an active member of the Committees for Revival of Civil Society a network of individuals engaging in the defense of human rights. According to the allegations received, on 4 June 2005, he was arrested after he made a speech at the funeral of the prominent Islamic scholar Sheikh Muhammad Ma'shuq al-Khiznawi, who had been allegedly abducted and tortured to death. Two hours after his arrest, security officers raided his house and confiscated books and copies of his lectures. Riad Drar al-Hamood is being held incommunicado in solitary confinement at 'Adra prison, near the capital, Damascus and has been charged with "inciting sectarian strife". He is to be tried by the Supreme State Security Court (SSSC). He suffers from diabetes-related high blood pressure. He has received one visit after his arrest, but has since then been denied visits, including his doctor. In view of the alleged detention incommunicado, concern is expressed that Riad Drar al-Hamood may be at risk of torture or other forms of ill-treatment, and for his physical and mental integrity if he does not receive prompt and adequate medical care. Concern is moreover expressed that the SSSC's procedures fall far short of international fair trial standards, in particular, defendants are reported to have no right to appeal and are restricted access to lawyers. Additionally, our information also indicates that under this jurisdiction, "confessions" allegedly extracted under torture, are admissible as evidence. The UN Human Rights Committee has stated that the SSSC's procedures are incompatible with the provisions of the International Covenant of Civil and Political Rights, to which Syria is a state party. Finally, concern is expressed that Riad Drar al-Hamood's arrest may be linked to his human rights work, in particular his involvement with the Committees for Revival of Civil Society.

488. On 11 November 2005, the Special Representative, together with Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning Mr. **Kamal Labwani**, head of the Liberal Democratic Party in Syria and member of the Administration Board of the Committees for the Defence of Human Rights, who has also actively worked for the respect of freedoms of opinion and expression in Syria. According to the information received, he was arrested upon arrival to Damascus airport on 8 November 2005. It is alleged that Mr. Labwani was seen escorted by scores of security personnel wearing civilian clothes. Mr. Labwani had arrived in Washington DC, USA, in late October 2005, at the behest of the US State Department Visitor's Program. Initially, he met with NGO's and human rights organizations. Later, he was allegedly introduced to some officials in the State Department and the White House and eventually this led to a meeting with a high-level U.S. Government official. Mr. Labwani had earlier been imprisoned in 2001 for three years for voicing his opinion against the Syrian Government.

### **Communications received**

489. On 4 November 2005, the Government replied to the communication of 19 January 2005 concerning **Abd al-Karim Dha'oun**. The Government stated that it received information from the competent Syrian authorities, indicating that Mr. Dha'oun committed a number of offences involving activities on behalf of unauthorized associations, the falsification of Government documents and the distribution of various publications attacking the political and social integrity of the State. The Government stated that he was also one of the main instigators of the unlawful

demonstration that took place outside the People's Assembly on 8 March 2004. Judicial proceedings were instituted against him and he was arrested. According to the Government, after his lawyer Abd al-Karim Wanus had been given every opportunity to defend his client in court, Mr. Dha`oun was convicted and sentenced to two months in prison. He was later released and is now at liberty.

490. On 22 July 2005, the Government transmitted the following information concerning **Mohammed Ra'dun** and **Nizar Ristnawi**. The Government stated that, with regard to Mohammed Ra'dun, he was arrested on 22 May 2005 after accusing the Syrian security authorities, via the media, of causing the death of Ahmed Ali Musaliha, who had died as the result of a heart operation which he had undergone 40 days after being released from detention. Mr. Rad'un was arrested under articles 286 and 288 of the Criminal Code. With regard to Nizar Mohamed Ristnawi, he was arrested on 18 April 2005 for writing and publishing negative material on the Internet.

491. On 30 December 2005 the Government provided further information concerning the communication of 26 May 2005. At the time this report was finalised, this reply was still in the process of being translated.

492. On 2 December 2005 the Government of Syria replied to the communication of 4 August 2005. At the time this report was finalised, this reply was still in the process of being translated.

493. On 1 December 2005 the Government of Syria replied to the communication of 11 November 2005. The Government stated that **Kamal Labwani** was arrested by the Syrian civilian police at Damascus International Airport because he was wanted by the Syrian judicial authorities. He was brought before an investigating judge of the civil court after having been charged under article 287 of the Syrian Criminal Code with making contact with foreign agencies for the purpose of denigrating the State.

#### **Responses received to communications sent in previous years**

494. On 2 January 2005 the Government replied to the communication of 27 October 2004 concerning the rejection of an application for registration filed by the Syrian Organization for Human Rights and about torture in Syrian prisons. The Government stated that the application from the above-mentioned organization was rejected on the grounds that it did not satisfy the conditions set out in the Private Associations and Institutions Act No. 93 of 1958 and its implementing regulation No. 1330 of 1958. The founders ought to have completed all the legal paperwork required for the establishment of the association, in accordance with article 3 of the Private Associations and Institutions Act. Since the necessary paperwork had not been completed in support of the application, the Ministry's decision to reject the application was proper, legal and valid. With regard to torture in prisons, article 52, paragraph 11, subparagraph (h), of the rules of procedure of the Ministry of Social Affairs and Labour, published in issue No. 9 of the 1990 Official Gazette, states: "The Social Defence Agency shall oversee the welfare of prisoners and their families and shall provide them with appropriate work." The task of guaranteeing the welfare of prisoners is entrusted to private associations throughout Syria which review conditions in prisons and provide prisoners and their families with all the forms of welfare which they require. The competent authorities (the Ministry of Social Affairs and Labour) had not received any complaints about improper practices or torture in Syrian prisons. As for the

authorities being responsible for investigating allegations, if any are made, the Department of Public Prosecutions is vested with competence for this task in accordance with the law and established judicial practice.

495. Moreover on 1 February 2005, the Government sent a further reply to the communication of 27 October 2004 stating that with regard to the allegation about the use of torture in Syrian prisons and detention centres, the Syrian Constitution and prevailing Syrian laws do not allow anyone to inflict physical or mental torture or degrading treatment on prisoners, and prescribe penalties of from three months to three years in prison for the commission of such acts. The Syrian courts apply the principle that confessions must be freely made and that a confession obtained by coercion lacks any legal validity. Moreover, anyone subjected to physical or mental coercion is entitled to apply to the competent court for compensation for any harm suffered. The Attorney-General and the competent departments of the Ministry of Justice oversee the system of justice, while the judiciary, the Department of Public Prosecutions and the Ministry of the Interior monitor places of detention and imprisonment in order to make sure that they apply the law and treat prisoners and detainees with respect. With regard to the registration of the self-proclaimed Syrian Organization for Human Rights, its application was rejected because it had not completed all the registration procedures required under the Syrian Associations Act. It failed to disclose its sources of income and how that income was used and spent (it appears that it receives funding from abroad), its founding members include persons who have been stripped of the exercise of their political rights for committing criminal offences, for which they were convicted under final court judgements, and the Organization has links with unregistered political parties.

### **Observations**

496. The Special Representative thanks the Government of the Syrian Arab Republic for its replies to her communications. The Special Representative regrets that she has not received a reply to her communication of 17 January 2005 concerning Dr. 'Aref Dalilah and Habib 'Isa. The Special Representative received new information indicating that Mr. **Mohamed Ra'doun** was released on 3 November 2005 together with another 190 political prisoners pursuant to a presidential pardon. The Special Representative welcomes this decision particularly in light of further information received claiming that Mr. Muhamad Ra'dun's health had deteriorated severely since he was detained on 22 May 2005.

## **Thailand**

### **Communications sent**

497. On 28 December 2004, the Special Representative, together with the Special rapporteur on the human rights of migrants, sent an urgent appeal regarding Mr. **A Salam**, an 18 year old citizen of Myanmar who volunteers as an interpreter for the Burmese worker centre in Mae Sot run by the Migrant Assistance Program (MAP) Foundation in cooperation with the Yang Chi Oo Worker Association. This centre provides legal assistance to migrant workers. According to the information received, on 14 December 2004 at about 4 p.m., a group of officials including members of the Mae Sot police, immigration officers and officers of the Department of Labour arrived at the Burmese worker centre in Mae Sot. Mr. A Salam offered to show the officials any

documents they needed to see, but was told that “it did not matter”. Instead, the officials entered the centre and began searching through files and computers, ignoring requests by those in the centre to explain the purpose of the search. The officials seized the files relating to complaints lodged by Burmese migrant workers, a record book and other documents. According to the information received, the documents seized have not been returned to the centre as of to date. Thereafter, the officials took Mr. A Salam to the immigration department office, and then to the Mae Sot police station. Upon request of the Department of Labour, the police arrested and charged him working in Thailand as an alien without working permit and receiving money from an organization under Articles 7 and 34 of the Foreign Workers Act. Mr. A Salam denied the charges, arguing that he works as a volunteer. He was released the following day, 15 December, after depositing bail in the amount of 20,000 baht. On 16 December 2004 at around 9 p.m., Mr. A Salam received an anonymous phone call. The caller stated that he would be kidnapped and killed if he did not put an end to his work for the migrant workers. Mr. A Salam had been previously intimidated. On 5 November 2004, at around 9.45 p.m., he was followed by three men on a motorcycle. On the Mae Sot Khang Phi Barn Road the three men surrounded him and one of them hit his right hand with a club. Mr. A Salam managed to escape, but required medical treatment at the Mae Sot hospital. On 8 November 2004, he reported the incident to the Mae Sot District Police Station. However, allegedly no serious action to investigate the aggression has taken place so far. Concern was expressed that the seizure of documents at the Burmese worker centre in Mae Sot and the legal action against Mr. A Salam might be aimed at obstructing their activity in defence of the human rights of Burmese migrant workers. These concerns were compounded by the threats made by unidentified individuals against Mr. A Salam.

498. On 14 March 2005, the Special Representative sent a letter of allegation concerning the alleged killing of Mr. **Supol Sirichan**, the head of Ban Den-Udom Village, Mae Mok Sub District, Lampang Province, northern Thailand. He had been working with local villagers for the protection of the Mae Mok forest reserve and had been campaigning against deforestation for several years. On 9 August 2004, Mr. Sirichan and some other persons reportedly informed the police in tambon Wiang Mok that forest poachers had cut down trees in Mae Mok forest and were preparing to transport logs out. According to the information received, on 11 August 2004, unknown individuals shot and killed Mr. Sirichan in front of his house in Thoen district. Allegedly, the police is conducting an investigation into the reported killing. Concern was expressed that the alleged killing of Mr. Supol Sirichan may be in retaliation of his human rights defence activity and in particular his work against deforestation, including protection of the Mae Mok forest reserve. The concern is heightened in light of reported killings and “disappearances” of several other human rights defenders since 2001, including Mr. Somchai Neephalaijit, who was the subject of an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers, the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture on 17 March 2004 and the urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the question of torture on 25 June 2004, to which we are in receipt of replies from your Excellency’s Government dated 30 March 2004 and 6 August 2004, and Mr. Charoen Wat-aksorn, who was subject to a letter of allegation sent by the Special Rapporteur on the promotion and protection of the right to freedom

of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 28 June 2004. The concern is further heightened in light of reports indicating only slow progress in the investigations into these alleged killings and “disappearances”.

499. On 7 September 2005, the Special Representative sent an urgent appeal concerning **Wiwat Thamee**, Network Coordinator, and the staff, of the Ethnic and Indigenous People’s Network of Thailand, an organisation that works with the education of non-ethnic Thai communities about their rights as citizens of Thailand, assisting them in obtaining documents and securing their formal rights. According to the information received, on 18 August 2005, at approximately 00:20, a grenade was thrown at the car belonging to Wiwat Thamee. It has been reported that three members of staff from the Ethnic and Indigenous People’s Network of Thailand had driven the Toyota D40 pick-up truck to Baan Pong Hai, in Mae Salong Nai subdistrict, Mae Fah Luang district and parked it approximately ten metres from Border Patrol Police Post No. 211. While the three staff members were in a nearby house they reportedly heard an explosion outside. They allegedly went to the scene of the explosion and found the pin from a grenade on the ground near to Wiwat Thamee’s car. It was reported that a dent in the roof of the vehicle indicated that the grenade had been thrown onto the vehicle and had then apparently bounced off and exploded in mid-air. The Border Patrol Police allegedly looked at the scene but did not do anything. The assistant village chief called various authorities, including the local Royal Thai Police, on a short wave radio but did not receive any response. It is further reported that the Border Patrol Police advised the witnesses not to file a complaint as it would not result in any action. On 20 August 2005 a complaint was lodged at the district police station. Concern is expressed that the attack on the vehicle constitutes a direct attempt to intimidate Wiwat Thamee and his staff and to prevent them from carrying out their human rights work for the non-ethnic Thai about their rights as citizens in Thailand. Wiwat Thamee had recently returned to Thailand from Geneva where he had been speaking before the UN Human Rights Committee. Concern was further expressed that this incident may be connected to his reporting to the UN on the situation for non-ethnic communities in Thailand.

500. On 7 September 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning In this connection, the attention of the Government was drawn to information received regarding Ms. **Angkhana Neelapaijit**, wife of **Somchai Neelapaijit**, Chairman of the Muslim Lawyers Association and human rights defender, who has reportedly been missing since 11 March 2004 and who was the subject of an urgent appeal sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on torture and the Special Representative of the Secretary-General on the situation of human rights defenders on the 17 March 2004 and an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on torture and the Special Representative of the Secretary-General on the situation of human rights defenders on the 25 June 2004. According to the information received, on 18 April 2005, the same day as an Asian Human Rights Commission (AHRC) statement was read at the United Nations Commission on Human Rights on behalf of Ms. Angkhana Neelapaijit, she received a phone-call from a member of the Police Intelligence Special Unit (the name of whom is known

to the Special Representative) enquiring as to whether she would make any submissions to the UN and whether she had contacted any NGOs for assistance. She was also asked if she would like to meet with the Prime Minister. Ms. Angkhana Neelapaijit reports feeling threatened by these enquiries. On 12 July 2005, Ms. Angkhana Neelapaijit reportedly received a phone-call from an unknown person who has contacted her on a number of occasions in relation to the disappearance of her husband and to warn her that she may be in danger. In this call the person allegedly warned her that she could be shot at while at home or in the street. Ms. Angkhana Neelapaijit reportedly told the caller that the phone lines could be tapped and the caller is reported to have said that he has nothing to fear from the police. On 15 July 2005, the day that Ms. Angkhana Neelapaijit left for Geneva to attend the UN Human Rights Committee meeting on Thailand, she reportedly received a visit to her home from four Government officers from the Ministry of Social Development and Human Security. They allegedly offered to provide her and her children with assistance and they enquired as to whether she was receiving any assistance from NGOs. According to the information received, between April and May 2005, Ms. Angkhana Neelapaijit was under the Ministry of Justice's witness protection program and received 24-hour security surveillance from Department of Special Investigation armed officers. Ms. Angkhana Neelapaijit reportedly requested to be removed from this protection program. She reported continued surveillance by persons she believes to be from the authorities. Concern was expressed that the intimidation as reported by Ms. Angkhana Neelapaijit is a direct result of her activities concerned with seeking justice over the disappearance of her husband on 11 March 2004.

501. On 26 September 2005, the Special Representative sent a communication concerning **Phra Supoj Suwajano**, a Thai monk and human rights defender who had openly exposed and protested against the illegal logging of forest land in Fang District, Chiang Mai province. According to the information received, on 17 June 2005, Phra Supoj Suwajano was stabbed to death, allegedly following an apparent dispute between himself and local influential businessmen regarding the exploitation of the land in the district and the attempts of the businessmen to obtain it. Concern was expressed that Phra Supoj Suwajano was killed in retaliation for his campaigning against the illegal logging of forest land in Chiang Mai and his work defending the rights of the community.

### **Communications received**

502. In a letter dated 15 August 2005, the Government of Thailand responded to the communication dated 14 March 2005. The Government stated that the killing of **Supol Sirichan** was being thoroughly investigated by the Thai authorities and that the perpetrators would be prosecuted. The Government stated that the Royal Thai Police collected substantive evidence and found that two persons were believed to be involved in murder by premeditation, possessing and carrying arms in public without permission and necessity. One of the accused was arrested but the state prosecutors dropped the charge due to lack of evidence. The second accused person was charged with murder but was still at large and that the police were searching for this person. The Royal Thai Police believe that the Supol Sirichan was murdered because of his work against deforestation which had caused the alleged perpetrators financial loss.

## Observations

503. The Special Representative thanks the Government of Thailand for its replies to her communication of 14 March 2005, but regrets that at the time this report was being finalized no response had been received to the communications of 28 December 2004, 7 September 2005 and 26 September 2005.

504. With regard to the response to the communication of 14 March 2005, the Special Representative looks forward to receiving further information regarding the apprehension of the second accused person.

## Togo

### Communications envoyées

505. Le 21 juin 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une lettre d'allégation concernant **des membres de la Ligue togolaise des droits de l'homme (LTDH)**, une organisation affiliée à la Fédération des Ligues des droits de l'homme. Selon les informations reçues, le 13 mai 2005, une conférence de presse organisée par la LTDH pour présenter son rapport, «Stratégie de la terreur au Togo (II): un règne aussi court que sanglant», aurait été interrompue par l'entrée en force dans les locaux d'un délégué national des jeunesses du Rassemblement du peuple togolais (RPT), du secrétaire général du Mouvement togolais de défense des droits de l'homme, une organisation proche du pouvoir, et d'une cinquantaine de personnes ayant l'apparence de miliciens. Au même moment, un véhicule des Forces armées togolaise (FAT) aurait effectué des patrouilles à l'extérieur. Selon les informations reçues, le délégué du RPT aurait frappé au visage au moyen d'un dossier le Vice-Président de la LTDH, **Estri Clumson-Eklu**, et l'aurait menacé en disant que la LTDH «sera[it]bientôt attaquée». Les intrus seraient restés plus de deux heures dans les locaux de l'organisation, empêchant la tenue de la conférence de presse. Cet incident survient après que, les 3 et 4 mai 2005, des employés de la LTDH auraient vu l'accès de leur bureau entravé par la présence d'une dizaine de militaires armés qui l'auraient encerclé et que, le 28 avril 2005, plusieurs miliciens armés se seraient présentés devant le domicile du Président de la LTDH, **Adote Akwei**, apparemment pour l'intimider. De sérieuses craintes ont été exprimées que ce harcèlement des membres de la Ligue togolaise des droits de l'homme ne vise à l'empêcher de mener ses activités en faveur de la défense des droits de l'homme, en particulier celles de dénoncer des abus qui auraient été commis dans le contexte des événements de février 2005 et de l'élection présidentielles du 24 avril 2005.

506. Le 17 octobre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant la situation de **Jean-Baptiste Dzilan, alias Dimas Dzikodo**, rédacteur en chef de l'hebdomadaire *Forum de la semaine* et membre actif de la LTDH. Selon les informations reçues, Dimas Dzikodo aurait été sévèrement agressé le 9 octobre 2005 alors qu'il se dirigeait, en compagnie d'un de ses frères, vers le quartier de Gbonvié au nord de Lomé. Sa moto aurait été renversée par un autre deux-roues et plusieurs hommes se seraient lancés sur le journaliste en le rouant de coups et l'aspergeant avec un produit chimique. Les hommes auraient quitté le lieu après que des habitants du quartier eurent répondu

aux appels au secours du journaliste, emportant avec eux la clé de son ordinateur et son téléphone portable. Selon les informations reçues, un pistolet automatique et des matraques auraient été retrouvés sur le lieu de l'agression et des gendarmes en civil auraient été reconnus en surveillance dans un bar devant la rédaction du journal de Dimas Dzikodo. Ces mêmes gendarmes l'auraient suivi. Cette attaque contre Dimas Dzikodo survient une semaine après qu'il eut rencontré une délégation de la Fédération internationale des droits de l'homme pour discuter, notamment, de la situation des défenseurs des droits de l'homme. Il avait déjà été arrêté par les forces de sécurité en juin 2003 et été détenu pendant 40 jours. Dimas Dzikodo, également secrétaire général de l'Organisation des éditeurs de la presse indépendante (OREPI), aurait aussi déjà fait l'objet de menaces de mort par le passé et aurait été, par ailleurs, interpellé plusieurs fois sous le régime précédent.

### **Communications reçues**

507. Le 22 août 2005, le Gouvernement togolais a répondu à la communication envoyée le 21 juin 2005 concernant la Ligue togolaise des droits de l'homme. Le Gouvernement a informé la Représentante spéciale du Secrétaire général que le vendredi 13 mai 2005 la Ligue avait organisé une conférence de presse à son siège pour rendre public son rapport sur les violations des droits de l'homme avant, pendant et après le scrutin présidentiel et indiqué qu'au cours de cet événement une série d'affrontements se serait produite entre les membres de la LTDH et les jeunes partisans du pouvoir. Le Gouvernement a précisé que les dernières élections avaient donné lieu à des violations provenant de partisans du pouvoir et de l'opposition. Il a souligné que la LTDH en tant qu'organisation des droits de l'homme se devait de ne pas prendre parti et que tout manquement à ce principe entamait nécessairement sa crédibilité. Il a également condamné le fait que des partisans du pouvoir se soient permis d'empêcher la Ligue de tenir sa conférence de presse. Il a indiqué qu'une commission nationale spéciale d'enquête indépendante avait été créée ainsi qu'une mission d'établissement des faits par l'ONU à la suite des événements survenus au moment des élections. Il a indiqué que l'une des missions de la Commission nationale était de déterminer les circonstances des actes de violence et de vandalisme et que, par conséquent, le Gouvernement attendait ses conclusions et recommandations ainsi que celles de la mission de l'ONU pour diligenter les investigations judiciaires nécessaires. Le Gouvernement a mentionné qu'à sa connaissance aucune plainte n'avait été déposée par la LTDH et par conséquent aucune suite ne pouvait être donnée à l'affaire.

### **Observations**

508. La Représentante spéciale du Secrétaire général prend bonne note de la réponse du Gouvernement à sa communication du 21 juin 2005 et l'invite à lui transmettre des réponses à sa communication du 17 octobre 2005. Elle regrette qu'à ce jour le Gouvernement togolais n'ait pas répondu favorablement à sa demande d'invitation.

## **Tunisia**

### **Communications envoyées**

509. Le 25 janvier 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et

d'expression et le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé un appel urgent concernant le **Conseil national pour les libertés en Tunisie** (CNLT) et un de ses membres, M<sup>e</sup> **Raouf Ayadi**, avocat et ancien secrétaire général du CNLT. M<sup>e</sup> Ayadi a été l'objet d'une lettre d'allégation envoyée par la Représentante spéciale du Secrétaire général et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression le 13 octobre 2003. Selon les informations reçues, le 15 janvier 2005, M<sup>e</sup> Ayadi aurait été insulté et menacé par un délinquant, dans le cadre d'une affaire civile, en présence d'un commissaire de police qui aurait par la suite refusé de dresser un procès-verbal, malgré la demande expresse de M. Ayadi. Le 18 janvier 2005, M<sup>e</sup> Raouf Ayadi aurait reçu un appel anonyme le menaçant de mort s'il ne se dessaisissait pas de l'affaire du Forum démocratique pour le travail et les libertés (FDTL, parti d'opposition), dans laquelle il défend M. Mustapha Ben Jaafar, secrétaire général du FDTL. M<sup>e</sup> Raouf Ayadi aurait déjà fait l'objet de menaces et d'actes de harcèlement répétés: ses déplacements et son cabinet seraient surveillés, et sa clientèle serait régulièrement soumise à des actes d'intimidation par les forces de l'ordre. En novembre 2003, il aurait fait constater cette surveillance permanente par le Conseil de l'ordre des avocats et porté plainte contre le Ministère de l'intérieur pour entrave à ses activités professionnelles. Aucune suite n'aurait été donnée à cette action. En outre, début janvier, M<sup>e</sup> Ayadi aurait été informé, par courrier, de la résiliation sans préavis du contrat de location de son cabinet, sans que le motif de cette décision ne lui soit communiqué. À ce jour, M<sup>e</sup> Ayadi serait toujours menacé d'expulsion. Selon les informations reçues, le 16 janvier 2005, le siège du CNLT lui-même, situé rue Abou Dhabi, à Tunis, aurait été encerclé par la police à l'occasion de son assemblée générale. Les forces de l'ordre auraient quadrillé le quartier et fait savoir aux militants qu'elles avaient reçu l'ordre d'interdire cette réunion par tous les moyens. L'assemblée générale du CNLT avait été reportée au 16 janvier à la suite de la dispersion violente de membres du CNLT par les forces de l'ordre, le 11 décembre 2004, qui aurait empêché les membres de se réunir au siège de leur organisation. À cette occasion, M. Mongi Ben Salah, syndicaliste et vice-président de la section Monastir de la Ligue tunisienne des droits de l'homme, aurait été traîné sur plusieurs dizaines de mètres, insulté et roué de coups au visage et au ventre. MM. Lofti Hidouri et Nourredine Ben Ticha, trésoriers du comité de liaison du CNLT, auraient été violemment frappés. M<sup>me</sup> Sihem Bensedrine, porte-parole du CNLT, et M. Ahmed Kilani, membre, auraient été bousculés alors qu'ils tentaient de s'interposer. Ces personnes auraient porté plainte devant le procureur de la République, sans qu'aucune suite n'ait été donnée à ce jour. Des craintes ont été exprimées que ces attaques ne visent à empêcher le CNLT et ses membres de poursuivre leur action en faveur de la défense des droits de l'homme. Ces craintes sont d'autant plus vives que le CNLT n'aurait toujours pas été reconnu par les autorités tunisiennes en dépit de ses nombreuses requêtes en ce sens.

510. Le 25 février 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant la situation d'**Abdallah Zouari**, un journaliste qui aurait déjà fait l'objet d'une lettre d'allégation envoyée par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général le 13 octobre 2003. Selon les nouvelles informations reçues, depuis sa libération en septembre 2004, les autorités continueraient à confiner M. Abdallah Zouari à Zarzis, une ville se trouvant en milieu rural dans la province de Medenine, à 500 kilomètres de distance de sa famille. Le 22 janvier 2005, le chef de sécurité de Zarzis aurait interdit l'accès de M. Abdallah Zouari aux quatre cafés Internet de la ville. Depuis

le 23 janvier 2005, M. Zouari aurait entamé une grève de la faim pour protester contre l'interdiction émanant des autorités de le laisser recevoir des visites et communiquer avec sa famille et ses amis. Des officiers de police entoureraient sa maison depuis le commencement de la grève de la faim sans le laisser recevoir aucune visite. Le 24 février 2005, l'état de santé de M. Abdallah Zouari aurait nécessité son transfert d'urgence au service de cardiologie de l'hôpital de Zarzis en province de Medenine. Selon les informations reçues, les autorités auraient exercé des pressions sur le corps médical de l'hôpital afin d'empêcher son hospitalisation. En conséquence, la police l'aurait ramené à son domicile malgré ses souffrances et son état précaire. De sérieuses craintes ont été exprimées quant à l'état de santé de M. Zouari.

511. Le 9 mars 2005, la Représentante spéciale du Secrétaire général, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur l'indépendance des juges et des avocats et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant M. **Mohammed Abou**, un avocat et défenseur des droits de l'homme. Selon les informations reçues, M<sup>e</sup> Abou aurait été arrêté à Tunis, le 1<sup>er</sup> mars 2005, sur une décision du juge du tribunal de première instance de Tunis pour avoir publié sur le site Internet <http://www.Tunisnews.com>, en août 2004, un article traitant des tortures infligées en Tunisie aux prisonniers politiques et dénonçant les critiques tunisiennes à l'encontre des exactions des soldats américains à Abou Ghraib en Iraq et l'absence de critique à l'égard de la torture en Tunisie. Selon les informations reçues, M<sup>e</sup> Abou serait inculpé, en vertu du Code de la presse et du Code pénal, pour «publication et diffusion de fausses nouvelles de nature à troubler l'ordre public», «outrage à la magistrature», «incitation de la population à enfreindre les lois du pays» et «publication d'écrits de nature à troubler l'ordre public». Il serait détenu à la prison du «9 avril» de Tunis depuis le 2 mars et encourrait une peine de 10 ans de prison. Des craintes ont été exprimées que cette arrestation ne représente une forme de représailles pour les activités de défense des droits de l'homme de M<sup>e</sup> Abou, en particulier sa dénonciation de la torture en Tunisie.

512. Le 22 mars 2005, la Représentante spéciale du Secrétaire général a envoyé une lettre d'allégation concernant la situation du **Conseil national pour les libertés en Tunisie**, qui avait déjà fait l'objet de communications de la part de la Représentante spéciale, la dernière envoyée le 25 janvier 2005, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression. Selon les informations reçues, le 12 février 2005, le siège principal du CNLT à Tunis aurait été entouré par une centaine de policiers en civil, qui auraient bloqué l'accès à l'assemblée générale devant y avoir lieu. Selon les sources, les autorités auraient déclaré qu'elles auraient reçu l'ordre d'interdire la tenue de la réunion par tous les moyens. Des craintes ont été exprimées que cette action policière ne vise à empêcher le CNLT de mener ses activités en faveur des droits de l'homme. Il faut noter que l'assemblée générale aurait été initialement prévue pour le 11 décembre 2004 mais, face à l'intervention policière verbale et physique pour la disperser, elle aurait été reportée au 16 janvier 2005. Néanmoins, ce jour-là, une forte présence policière se serait encore manifestée, et on aurait dû remettre l'assemblée jusqu'au 12 février 2005.

513. Le 24 mars 2005, la Représentante spéciale du Secrétaire général a envoyé un appel urgent concernant la situation de **Khémais Ksila**, Secrétaire général de la LTDH depuis 2000 et membre du conseil d'administration de l'Institut arabe des droits de l'homme. Selon les

informations reçues, en octobre 2001, Khémamis Ksila aurait décidé de s'exiler en France suite à une campagne de diffamation à son encontre, qui avait fait l'objet d'une communication de la Représentante spéciale du Secrétaire général le 19 octobre 2001. Il bénéficierait depuis du statut d'asile territorial qui lui conférerait un titre de séjour temporaire renouvelable tous les ans. Le 12 février 2002, le tribunal de première instance de Tunis l'aurait condamné par défaut à 10 ans d'emprisonnement ferme et une lourde amende pour «tentative de viol, harcèlement sexuel et atteinte à la pudeur de la part d'une personne ayant autorité morale sur la personne de la victime» en partie sur la base d'un tract anonyme daté du 30 août 2001 l'accusant de harcèlement sexuel contre une des secrétaires de la LTDH. Selon les informations reçues, le procès aurait été condamné par de nombreuses ONG de droits de l'homme comme ayant été motivé politiquement et ayant comporté de nombreuses irrégularités. En particulier, les avocats de la LTDH se seraient vu refuser l'accès au dossier, le secret de l'instruction n'aurait pas été respecté et des éléments du dossier auraient paru dans des journaux proches du pouvoir. Selon les informations reçues, la validité du passeport de Khémamis Ksila, auquel sa carte de séjour française serait attachée, expirerait le 29 mai 2005. Afin de renouveler son passeport, M. Ksila devrait se présenter auprès des autorités consulaires tunisiennes à Paris. Des craintes ont été exprimées qu'au moment de la demande de renouvellement M. Ksila ne se voie confisquer son passeport. Ces craintes sont d'autant plus vives qu'il aurait déjà été privé de son passeport pendant quatre ans, d'août 1996 jusqu'en mai 2000, et qu'un mandat d'amener aurait été émis à son encontre. Des craintes ont également été exprimées que le non-renouvellement du passeport de M. Ksila ne résulte en la perte de son statut en France et ne vise à forcer M. Ksila à rentrer en Tunisie.

514. Le 6 avril 2005, la Représentante spéciale du Secrétaire général a envoyé un appel urgent concernant **Rim, Zaid et Mohamed Ksila**, les trois enfants de Khémamis Ksila, Secrétaire général de la LTDH, qui a déjà été le sujet d'un appel urgent de la part de la Représentante spéciale le 24 mars 2005. Selon les nouvelles informations reçues, le 18 février 2005, les services consulaires tunisiens à Paris auraient refusé de renouveler les passeports de Rim et Zaid Ksila. Le 26 février 2005, les autorités consulaires auraient également refusé d'octroyer un nouveau passeport à Mohamed Ksila, ce qui l'empêcherait de se rendre en Tunisie le 11 avril 2005 pour commencer un stage de 10 semaines dans le cadre de son cursus universitaire en France et dont dépendrait la délivrance de son diplôme. De sérieuses craintes ont été exprimées concernant les effets que ce refus par les autorités tunisiennes de délivrer des papiers pourrait avoir sur la situation de Rim, Zaid et Mohamed Ksila, en France depuis 2001. En particulier, ils risqueraient de se retrouver dans une situation irrégulière, puisque le renouvellement de leurs titres de séjour par les autorités françaises serait conditionné par la possession d'un passeport valide. Leurs passeports actuels expireraient le 7 juin 2005. Des craintes ont également été exprimées que le non-renouvellement de leurs passeports ne vise à forcer leur père, M. Ksila, à rentrer en Tunisie.

515. Le 12 mai 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un nouvel appel urgent concernant la situation de M<sup>e</sup> **Mohammed Abbou**, avocat et membre de l'Association internationale de soutien aux prisonniers politiques (AIISSP), M<sup>e</sup> **Najib Hosni**, M<sup>e</sup> **Sonia Ben Amor**, M<sup>e</sup> **Ousama Thalja**, M<sup>e</sup> **Radhia Nasraoui**, M<sup>e</sup> **Ayachi Hammami** et M<sup>e</sup> **Raouf Ayadi**, avocats défenseurs de M<sup>e</sup> Mohammed Abbou, ainsi que M<sup>e</sup> **Faouzi Ben Mrad**, avocat à la Cour de cassation tunisienne. Selon les informations reçues, le 29 avril 2005, suite à un procès qui n'aurait pas réuni toutes les garanties pour un procès juste et

équitable, M<sup>e</sup> Mohammed Abbou aurait été condamné à trois ans et demi de prison, pour avoir critiqué sur Internet les conditions de détention des prisonniers tunisiens et pour «violences à l'encontre d'une avocate». Depuis le 3 mai 2005, M<sup>e</sup> Mohammed Abbou aurait entamé une grève de la faim pour protester contre les conditions inéquitables dans lesquelles se serait déroulé son procès. Le 29 avril 2005, M<sup>e</sup> Najib Hosni, M<sup>e</sup> Sonia Ben Amor et M<sup>e</sup> Ousama Thalja auraient été entravés dans l'exercice de la défense de leur client, M<sup>e</sup> Mohammed Abbou, lors de leur visite à la prison du Kef. Alors que M<sup>e</sup> Najib Hosni n'aurait pas été autorisé à voir son client, M<sup>e</sup> Sonia Ben Amor aurait pu le voir pendant quelques minutes, après quoi elle aurait été entraînée hors de la prison alors que le directeur de la prison lui donnait des coups de pied. Suite à ces événements, elle se serait vu refuser le dépôt d'une plainte. Elle serait en outre poursuivie pour outrage à un fonctionnaire et destruction de biens publics suite à la présentation de deux plaintes par le directeur de la prison et un des gardiens, accusations pour lesquelles elle devrait se présenter le 12 mai 2005 devant le juge d'instruction de la première chambre d'instruction du tribunal de première instance du Kef. Le 29 avril, M<sup>me</sup> Abbou aurait été empêchée de voir son mari et de lui donner des provisions lors de sa visite hebdomadaire. Le 3 mai 2005, M<sup>e</sup> Faouzi Ben Mrad aurait été arrêté, condamné à quatre mois de prison ferme et incarcéré pour outrage à magistrat, alors que la semaine précédente il aurait pris la parole pour défendre son collègue M<sup>e</sup> Mohammed Abbou. En outre, le 5 mai 2005, M<sup>e</sup> Sonia Ben Amor, M<sup>e</sup> Radhia Nasraoui, M<sup>e</sup> Ayachi Hammami et M<sup>e</sup> Raouf Ayadi, avocats de M<sup>e</sup> Mohammed Abbou, auraient été informés de leur prochaine parution devant le conseil de discipline à la demande de l'avocat général, M<sup>e</sup> Habib Ben Youssef. Ils risquent d'être radiés du Barreau. Le 6 mai 2005, les avocats faisant partie du Comité de soutien à M<sup>e</sup> Abbou qui se seraient rassemblés devant le palais de justice auraient été encerclés par la police et forcés de quitter les lieux de manière violente. Certains d'entre eux, y compris le Bâtonnier du Conseil de l'ordre des avocats tunisiens, seraient tombés par terre, auraient vu leurs vêtements déchirés et leurs lunettes arrachées.

516. Le 19 mai 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé un appel urgent concernant la situation de **Lotfi Hajji**, Président du Syndicat indépendant des journalistes tunisiens (SJT), créé en mai 2004. Selon les informations reçues, depuis le 25 avril 2005, M. Hajji a été convoqué par la police à plusieurs reprises et s'est vu confisquer plusieurs livres au retour d'un voyage au Maroc. Le 4 mai, la police lui aurait signifié que son syndicat ne disposait pas du statut légal lui permettant de publier un rapport sur les droits des médias et il aurait été à nouveau convoqué le 7 mai 2005. Malgré cela, le SJT a décidé de rendre public son rapport sur l'indépendance des médias dans le pays. Le 9 mai, dans les locaux de la police, M. Hajji a été informé que le SJT était considéré comme illégal et on lui a fermement conseillé de ne plus diffuser de communiqués de presse ou de rapports au nom du syndicat. Selon les informations reçues, d'après le Code du travail de 1965 qui régit la vie syndicale en Tunisie, la création d'un syndicat ne nécessite pas d'autorisation de la part des autorités tunisiennes. Il faut noter également que les autorités tunisiennes avaient refusé, en 2004, l'accréditation de M. Hajji en tant que correspondant local d'*Al Jazeera*, la chaîne en langue arabe basée au Qatar.

517. Le 16 juin 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une nouvelle lettre d'allégation concernant la situation de **Mohammed Abbou**, avocat, qui a vu sa peine

confirmée en appel le 10 juin 2005, après avoir été condamné, en première instance, à trois ans et demi de prison le 29 avril 2005. Il aurait été reconnu coupable d'une agression physique sur l'une de ses consœurs en 2002 et d'avoir diffusé de fausses informations sur Internet. Selon les informations reçues, le procès d'appel n'aurait pas respecté les normes internationales les plus élémentaires concernant la tenue d'un procès équitable. Les débats n'auraient duré que quelques minutes. La presse, l'épouse de l'inculpé et de nombreux observateurs nationaux et internationaux auraient été évacués avant le début de l'audience et n'auraient pas pu y assister. Seuls les avocats de la défense et ceux mandatés par les ONG internationales auraient été présents, mais ils n'auraient pas pu prendre la parole pour assurer la défense de Mohammed Abbou. Mohammed Abbou lui-même n'aurait pas non plus pu assurer sa défense, car il aurait été autorisé uniquement à répondre oui ou non aux deux questions posées par le juge, sans pouvoir fournir la moindre explication. Les Rapporteurs spéciaux et la Représentante spéciale du Secrétaire général expriment leur vive préoccupation face aux allégations de graves manquements aux normes relatives au procès équitable, notamment le droit de tout accusé de se défendre et d'être entendu et jugé par un tribunal indépendant. Ils craignent que la condamnation de Mohammed Abbou ne soit liée à la publication sur Internet de certains articles concernant l'utilisation de la torture en Tunisie, l'invitation faite au Premier Ministre israélien Ariel Sharon d'assister au prochain Sommet mondial sur la société de l'information ainsi que des considérations sur la famille du Président Ben Ali.

518. Le 25 juillet 2005, la Représentante spéciale du Secrétaire général a envoyé un appel urgent concernant l'**Institut arabe des droits de l'homme** (IADH). Selon les informations reçues, depuis 20 mois, l'IADH ferait face à de grandes difficultés de fonctionnement suite au blocage de ses avoirs dans les banques tunisiennes. Ces blocages seraient le fait d'une décision administrative émanant des autorités tunisiennes et qui aurait été prise en application de la nouvelle loi antiterroriste et de contrôle des mouvements de fonds financiers. Cette décision aurait été signifiée à l'organisation lors d'entretiens, aucune notification officielle motivée ne serait parvenue ni à l'IADH ni à sa banque. Les fonds en question proviennent, entre autres, de l'Union européenne, du Haut-Commissariat des Nations Unies aux droits de l'homme, de l'UNICEF et de l'UNESCO et viseraient à soutenir l'activité de promotion des droits de l'homme de l'Institut. Selon les informations reçues, certaines autorités tunisiennes auraient publié des mises au point expliquant que cette situation serait liée à la présence au sein du conseil d'administration de l'IADH de M. K. Kessila, Secrétaire général de la Ligue des droits de l'homme ayant été condamné à 10 ans de prison par contumace et qui avait déjà fait l'objet d'un appel urgent de la part de la Représentante spéciale du Secrétaire général en date du 24 mars 2005. En conséquence de ces gels, l'IADH se serait vu dans l'obligation de mettre en congé forcé le tiers de son personnel et se verrait dans l'impossibilité de poursuivre ses activités de promotion des droits de l'homme. La Représentante spéciale exprime sa vive préoccupation face à la situation de l'IADH. Elle note que celle-ci survient après que des gels semblables ont affecté la Ligue tunisienne des droits de l'homme (voir appels du 27 avril 2004 et du 7 mai 2004). Des craintes ont été exprimées que le Gouvernement, par cette politique de gel de fonds, ne vise à entraver les activités de promotion et protection des droits de l'homme.

519. Le 6 septembre 2005, la Représentante spéciale du Secrétaire général a envoyé une communication concernant le Conseil national pour les libertés en Tunisie (CNLT), en particulier M. **Abdelkader Ben Khémis**, Secrétaire général de l'organisation. Selon les informations reçues, le 1<sup>er</sup> septembre 2005, alors qu'il se trouvait au marché du Kef, au nord-est

du pays, M. Ben Khémiss aurait été injurié, agressé et menacé de mort par plusieurs individus, connus comme étant à la solde de personnes influentes de l'économie parallèle de la ville. Suite à cette agression, M. Ben Khémiss se serait rendu au poste de police le plus proche pour porter plainte où il aurait été insulté et violemment poussé sur un banc par six policiers faisant référence à son rôle au sein du CNLT et à son statut d'universitaire. Il aurait ensuite été placé en garde à vue pendant deux heures, sans qu'aucune charge officielle ne soit retenue contre lui. Suite à ces événements, M. Ben Khémiss aurait porté plainte auprès du parquet du Kef pour violence et abus de pouvoir. Des craintes ont été exprimées que cette agression ne soit liée aux activités de M. Ben Khémiss en faveur du respect de l'Etat de droit et des droits de l'homme en Tunisie. En effet, M. Ben Khémiss est l'auteur de deux articles dénonçant les pratiques illégales de certains groupes et la protection dont ils bénéficient de la part des autorités locales, parus dans le quotidien *El Maoukes* en juillet 2004 et août 2005. D'autre part, selon les informations reçues, le 3 septembre 2005, la police aurait encerclé le siège du CNLT à Tunis, afin d'en interdire l'accès aux membres du comité de liaison. Le bâtiment serait resté inaccessible pendant 48 heures, jusqu'au dimanche 4 août dans la soirée.

520. Le 7 septembre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant la situation de la **Ligue tunisienne des droits de l'homme**, qui avait déjà fait l'objet d'appels urgents en date du 2 septembre et du 6 septembre 2005. Selon les nouvelles informations reçues, le 7 septembre au matin, de nombreuses forces de police en uniforme et en civil auraient encerclé le siège de la LTDH, empêchant la libre entrée du bureau. Les forces de police auraient été munies de listes en fonction desquelles elles autoriseraient ou non les entrées. Des barrages auraient également été mis en place dans les rues avoisinantes afin de contrôler l'accès à la Ligue. D'après les informations reçues, censément à la demande des auteurs de la plainte déposée à l'encontre de la LTDH, un huissier se serait présenté par deux fois dans la journée à 9 h 45 et à 13 heures afin de vérifier que la LTDH ne continue pas les préparatifs pour son congrès annuel. Des craintes ont été exprimées que cette action ne vise à la fermeture de la Ligue et à mettre fin à ses activités en faveur de la défense des droits de l'homme.

521. Le 7 septembre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé une communication concernant la situation de l'**Association des magistrats tunisiens (AMT)** et ses membres. Selon les informations reçues, le 29 août 2005, M. Ahmed Rahmouni, Président de l'AMT, aurait été convoqué par le procureur auprès du tribunal de première instance de Tunis, qui lui aurait donné l'ordre de lui remettre les clés du local de l'Association, hébergée au palais de justice depuis 1946. Le lendemain, l'avocat général auprès la Cour d'appel de Tunis, mandaté par le Ministère de la justice, aurait convoqué les responsables de l'AMT pour leur demander oralement de lui remettre les clés du siège de l'AMT. Ces derniers auraient contesté la légalité de cette démarche, invoquant que seule une procédure judiciaire serait qualifiée pour retirer la jouissance de son local à un bureau démocratiquement élu, ou une décision administrative (susceptible d'être contestée devant le Tribunal administratif) émanant du Ministère de l'intérieur, dont relèvent les associations. Le 31 août 2005, les membres de l'AMT se seraient vu dans l'impossibilité d'accéder à leur local dont les serrures avaient été changées, fait constaté par un huissier notaire. Des craintes ont été exprimées que ces événements ne visent à exercer des pressions sur les membres de l'AMT. Ces craintes sont d'autant plus vives que ces faits

interviennent dans un contexte de représailles à l'égard des magistrats tunisiens indépendants. En particulier, le 4 août 2005, une nouvelle loi relative au système judiciaire, au Conseil supérieur de la magistrature (CSM) et au statut des magistrats restreignant l'indépendance des magistrats a été promulguée par le Président après son adoption par la Chambre des députés le 30 juillet. Selon nos informations, la nouvelle loi, qui amende celle du 14 juillet 1967, nie le droit des juges de contester les décisions de l'administration devant une instance judiciaire et leur droit à interjeter appel des sanctions disciplinaires auprès du Tribunal administratif, en restreignant ce droit à une requête adressée à une « commission des recours » issue du CSM. De même, la possibilité de contester les mesures de mutation des magistrats arrêtées par le CSM est dorénavant du ressort d'une autre structure dépendant du Conseil. Selon les informations reçues, le 1<sup>er</sup> août 2005, après l'adoption de cette loi, le Ministère de la justice aurait effectué une série de mutations disciplinaires prenant pour cible les membres les plus actifs de l'AMT. Une trentaine de membres de l'AMT auraient été affectés dans de nouvelles juridictions, parfois à plus de 400 km de leur résidence et de leur famille. En particulier, M<sup>me</sup> Kalthoum Kennou, secrétaire générale de l'AMT, aurait été mutée à Kairouan (160 km de Tunis) et M<sup>me</sup> Wassila Kaabi, membre du bureau, aurait été mutée à Gabès (420 km de Tunis). D'autre part, 15 membres de la commission administrative de l'association (sur un total de 38) auraient été affectés dans de nouvelles juridictions de façon à leur faire perdre leur qualité représentative au sein de l'Association, et neuf magistrats membres de la même commission auraient été mutés dans des provinces éloignées de leur juridiction d'origine ou ont été délestés de leurs attributions professionnelles. Des craintes ont été exprimées que ces actes ne constituent une forme de représailles à l'encontre des membres de l'AMT et leur action en la faveur d'une justice indépendante en Tunisie. Ils interviennent à la suite d'un vote d'une motion générale lors du 10<sup>e</sup> congrès de l'Association en décembre 2004, présentant des revendications institutionnelles visant à garantir l'indépendance de la justice et après que, le 31 mai 2005, l'AMT eut souligné dans un mémorandum l'urgence de réformer profondément le CSM, notamment en établissant le principe du choix de la majorité de ses membres par voie d'élections.

522. Le 23 septembre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant la **Ligue tunisienne des droits de l'homme**, qui avait déjà fait l'objet de plusieurs appels urgents. Selon de nouvelles informations, les comités de section de la LTDH auraient décidé en concertation avec le comité directeur d'organiser des réunions d'information pour les adhérents dans les différentes sections locales. Cependant, les 16, 17 et 18 septembre 2005, les réunions prévues à Jendouba, Mahdia, Sousse, Bizerte, Gafsa et Monastir auraient été empêchées par les forces de police qui auraient encerclé les locaux de ces sections et filtré l'accès, interdisant aux militants, y compris les membres des comités de section et les membres du comité directeur ayant fait le déplacement, de s'approcher. Les comités de section de Mateur, de Kébili et de Gabès auraient également été empêchés de tenir leurs réunions ordinaires dans leurs locaux. Le lundi 19 septembre, alors que les responsables de la section de Mahdia allaient se réunir, l'encerclement de leur local par les policiers en civil aurait interdit l'accès à leur lieu légal de réunion. Devant l'insistance des membres de la LTDH, les forces de police, menées par le vice-président du district de police, auraient isolé le Président de la section, Mohamed Ataya, et l'auraient agressé. En particulier, il aurait été frappé à la gorge, ce qui aurait provoqué une asphyxie au cœur et à l'abdomen et engendré une violente tachycardie. Suite à cette agression,

M. Ataya aurait du être transporté en urgence à l'hôpital, où il serait encore aujourd'hui sous observation médicale.

523. Le 4 octobre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant la **situation des défenseurs des droits de l'homme en Tunisie**. Selon les informations reçues, il semblerait qu'au cours des dernières semaines les organisations de défense des droits de l'homme ainsi que leurs membres fassent l'objet d'un harcèlement continu de la part des autorités visant à mettre un terme à leurs activités de promotion et protection des droits de l'homme. Ils ont exprimé leur profonde préoccupation envers les obstructions à la liberté d'association auxquelles semblent se heurter les défenseurs des droits de l'homme. Selon les informations reçues, la liberté d'association est reconnue par l'article 8 de la Constitution tunisienne et régie par la loi du 7 novembre 1959 modifiée le 2 août 1988 et le 2 avril 1992. La création d'une association est en théorie soumise à un régime de déclaration contre laquelle le Ministère de l'intérieur délivrerait un récépissé permettant la publication au journal officiel. Il semblerait, néanmoins, qu'en pratique les autorités se comportent comme si les associations étaient soumises à un régime d'autorisation préalable, ce qui aurait pour effet de contraindre les défenseurs à fonctionner dans l'illégalité afin de pouvoir poursuivre leur travail. En particulier, les informations font état de nombreux cas d'organisations non gouvernementales travaillant à la défense des droits de l'homme qui se verraient contraintes d'opérer dans l'illégalité, alors même qu'elles auraient fait les démarches nécessaires selon la loi en vigueur pour se constituer en association. De nombreuses associations auraient physiquement été empêchées par les forces de l'ordre de déposer leurs statuts, se seraient vu refuser la délivrance du récépissé confirmant leur déclaration ou le dépôt de leurs statuts serait resté sans réponse. Il a été rapporté qu'à de nombreuses reprises l'absence de reconnaissance légale des organisations de défense de droits de l'homme a été utilisée par les autorités pour leur refuser certains droits, notamment la publication de rapports ou la tenue de réunions. De telles pratiques, si elles étaient avérées, représenteraient une violation de l'alinéa *b* de l'article 5 de la Déclaration sur les défenseurs des droits de l'homme qui reprend l'article 22 du Pacte international relatif aux droits civils et politiques et garantit le droit fondamental à la liberté d'association, tout particulièrement quand celle-ci a pour but la défense de droits internationalement reconnus. Les informations font également état de tentatives d'interférence dans la gestion interne des associations visant à bloquer leur fonctionnement. En particulier, des membres effectifs ou fictifs desdites associations proches du Gouvernement tenteraient de discréditer les organes directeurs pourtant dûment élus par des communiqués de presse diffamatoires, des appels à de nouvelles élections internes ou des actions en justice. Par ailleurs, ils ont exprimé leur profonde préoccupation envers les entraves à la liberté de réunion qui semblent être imposées aux défenseurs des droits de l'homme. La liberté de réunion en Tunisie est garantie par la Constitution et régie par la loi du 24 janvier 1969, qui stipule que seul un préavis de l'autorité compétente est nécessaire. Il semblerait cependant que les ONG des droits de l'homme se verraient fréquemment empêchées de tenir leurs réunions, assemblées générales, congrès annuels ou séminaires. Les experts ont indiqué qu'ils avaient notamment reçu de nombreux rapports faisant état de l'encerclement des bureaux des ONG par les forces de l'ordre, voire du bouclage de quartiers entiers pour interdire l'accès des membres aux réunions. Ils ont exprimé leur plus vive inquiétude à l'égard des informations reçues concernant les violences physiques perpétrées par les forces de l'ordre contre les défenseurs lors de ces incidents. Il semblerait par ailleurs que les forces de sécurité exercent une surveillance permanente des associations et de leurs membres,

notamment en postant des policiers en civil aux alentours, ce qui a pu être constaté lors du passage en Tunisie de la Représentante spéciale du Secrétaire général au printemps dernier. Nous tenons également à souligner notre plus vive inquiétude devant les restrictions qui semblent être imposées à la liberté d'expression en Tunisie. Depuis début 2002, ils ont en effet suivi quelque 14 cas concernant la mise à l'amende, la mutation forcée, l'arrestation et l'emprisonnement de nombre de journalistes, d'avocats et de magistrats pour avoir soulevé publiquement des questions de droits de l'homme. Il semblerait, en particulier, que les journalistes fassent face à une criminalisation grandissante de leur activité. Dans le cadre de leur mandat, les Rapporteurs spéciaux et la Représentante spéciale du Secrétaire général ont reçu de nombreux cas de journalistes faisant l'objet de poursuites judiciaires pour «diffamation», «propagation de fausses nouvelles de nature à troubler l'ordre public», «outrage» aux autorités pour avoir publiquement dénoncé des violations des droits de l'homme. Dans ce cadre, ils ont tenu à rappeler au Gouvernement les dispositions des articles 5 (al. c), 6 et 7 de la Déclaration sur les défenseurs des droits de l'homme, qui reprennent l'essence de l'article 19 du Pacte international relatif aux droits civils et politiques et garantit la liberté d'expression, en particulier dans le cadre de la promotion et protection des droits de l'homme. Il semblerait en outre que certains défenseurs des droits de l'homme soient victimes de fausses accusations motivées par une volonté de nuire à leur travail et réputation qui conduiraient à leur condamnation au cours de procédures judiciaires ne respectant pas les droits de la défense. Ils ont également attiré l'attention du Gouvernement sur les difficultés rencontrées par certaines ONG de défense de droits de l'homme pour accéder aux fonds étrangers destinés à leur activité. Ils ont salué l'issue favorable qui a pu être trouvée à la situation de l'Institut arabe des droits de l'homme. Ils restent néanmoins préoccupés par la situation de certaines autres associations confrontées aux mêmes difficultés. Il semblerait que les restrictions soient, en partie, fondées sur la législation mise en place pour combattre le terrorisme. Quoiqu'ils aient reconnu pleinement l'importance pour le Gouvernement tunisien de combattre ce fléau, ils ont souligné que la capacité des défenseurs des droits de l'homme de mener à bien leurs activités repose sur leur aptitude à accéder aux financements, notamment en provenance de l'étranger. Ce droit ne saurait être remis en question dans le cadre de la lutte contre le terrorisme, en particulier lorsque et les bénéficiaires et les bailleurs de fonds représentent des entités connues et transparentes dont l'activité de défense des droits de l'homme est clairement reconnue, ainsi que stipulé par l'article 13 de la Déclaration sur les défenseurs des droits de l'homme. Ils ont appelé le Gouvernement à ce que les libertés fondamentales soient respectées en Tunisie et en particulier les normes fondamentales concernant la liberté d'expression, d'association et de réunion afin que les défenseurs des droits de l'homme puissent mener à bien leur activité en Tunisie dans un climat constructif, en particulier à l'approche du Sommet mondial de la société d'information devant se tenir en novembre 2005.

524. Le 19 octobre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant la situation ci-après. Selon les informations reçues, le 19 septembre, à Mahdia, le Président de la section de la LTDH, **Mohamed Attia**, aurait été violemment pris à partie par la police devant le local de la section. À la suite de cette altercation, il aurait dû être hospitalisé. La police aurait exercé des pressions sur le personnel médical pour qu'il ne soit pas gardé en soins à l'hôpital. Le 2 octobre, à Kairouan, à l'occasion d'une tentative de réunion au local de la LTDH, **Zakia Dhifaoui** aurait été agressée par cinq agents de police, qui l'auraient frappée et traînée sur plusieurs centaines de mètres jusqu'au commissariat où elle aurait été insultée, frappée et

maintenue à genoux plus d'une heure, puis interrogée par le chef du district et menacée de poursuites pour agression sur des agents dans l'exercice de leur fonctions. Après sa libération, elle se serait rendue à l'hôpital régional pour se soigner. Elle y aurait trouvé les mêmes agents de police qui l'y auraient précédée. Le médecin de garde ne lui aurait pas délivré un certificat médical, ce ne serait que le lendemain que le chef du service des urgences lui aurait délivré un certificat de quatre jours après s'être excusé des pressions et des coups de téléphone reçus de la police du district. Le 16 octobre 2005, **Mokhtar Trifi**, Président de la LTDH, aurait été empêché d'arriver au local de la section de Bizerte par la police alors qu'il comptait tenir une réunion avec les adhérents. À Kairouan, **Messaoud Romdhani**, Président de la section de la LTDH aurait été agressé par des agents de police en civil qui auraient déchiré ses vêtements et l'auraient insulté puis conduit au commissariat et menacé de poursuites. D'autres membres de la LTDH auraient également été agressés, dont Taoufik Gueddah, Makki Ayadi, Mouldi Romdhani, ainsi que des syndicalistes, dont Naceur Ajili, Abdellaziz Sebri et Fathi Letaief, secrétaires généraux adjoints de l'Union régionale du travail de Kairouan. À Mateur, à l'occasion d'une tentative de réunion de la section, des policiers en civil auraient usé de violences contre Mohamed Salah Nehdi, Président de la section, ainsi que les membres du comité, dont Chadhli Maghraoui, Abderrahmane Marsani et Fethi Maghraoui. Quand ils se seraient rendus au commissariat, les agents auraient refusé d'enregistrer leur plainte. À Nafta, le Président de la section, Chokri Dhouibi, aurait lui aussi été agressé par la police, qui aurait suivi les membres de la Ligue jusque dans les cafés, leur interdisant de s'attabler. Abdellatif Bouhjila, qui purge une peine de 11 ans depuis 1998, avait entamé une grève de la faim depuis le 15 août pour exiger son droit à bénéficier des soins prescrits par le médecin et que l'administration carcérale lui refuse arbitrairement, sachant que Bouhjila souffre d'asthme et d'insuffisance rénale. Il aurait été battu par les gardiens et placé en isolement pour avoir refusé de s'alimenter. Le 7 octobre, Naceur Bejaoui, qui purge actuellement une peine 19 ans et 3 mois de prison depuis 1991 aurait été violemment battu par le directeur de la prison de Borg Erroumi, Imed Ajmi, juste après la visite hebdomadaire qui aurait été brutalement interrompue par le gardien Rachid, au moment où Naceur Bejaoui demandait à son père de prendre contact avec des ONG de droits humains pour les informer de sa situation. Il aurait été par la suite enchaîné et placé en isolement au cachot. Naceur Bejaoui avait entamé une grève de la faim le 16 septembre pour exiger son droit à bénéficier du principe de l'autorité de la chose jugée, parce qu'il avait été condamné deux fois pour les mêmes faits.

525. Le 21 octobre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant la situation suivante: le 18 octobre 2005, M<sup>e</sup> **Ahmed Néjib Chebbi**, Secrétaire général du Parti démocratique progressiste (PDP), **Hamma Hammami**, porte-parole du Parti communiste ouvrier tunisien (PCOT), M<sup>e</sup> **Abderraouf Ayadi**, Vice-Président du Parti du congrès pour la république (CPR), **Mokhtar Yahyaoui**, magistrat et Président du Centre pour l'indépendance de la justice (CIJ), M<sup>e</sup> **Mohamed Nouri**, Président de l'Association internationale de soutien aux prisonniers politiques (AISPP), M<sup>e</sup> **Ayachi Hammami**, Président du Comité de soutien de l'avocat M<sup>e</sup> Abbou, et **Lotfi Hajji**, Président du Syndicat indépendant des journalistes tunisiens, rejoints par M<sup>e</sup> Samir Deilou, membre de l'AISPP, qui ont entamé une grève de la faim dans le bureau de M<sup>e</sup> Ayachi Hammami à Tunis, auraient été assiégés, depuis la tenue d'une conférence de presse qu'ils ont donnée sur les raisons de cette grève, par un dispositif policier démesuré qui aurait empêché tout contact avec l'extérieur. La police aurait par ailleurs agressé des délégations d'étudiants, de syndicalistes, de

journalistes, des opposants politiques et des défenseurs de droits humains venus exprimer leur soutien et leur solidarité avec les grévistes de la faim. M. Hajji a déjà fait l'objet de deux communications du Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et de la Représentante spéciale du Secrétaire général, le 19 mai et le 2 septembre 2005. M. Ayadi a déjà fait l'objet de deux communications envoyées par le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur l'indépendance des juges et des avocats et la Représentante spéciale du Secrétaire général en date du 25 janvier et du 12 mai 2005.

526. Le 27 octobre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant M<sup>e</sup> **Hédi Menai**, membre de la section régionale du Conseil de l'ordre des avocats, membre fondateur et ancien dirigeant du CNLT, membre du bureau de la section de Jendouba de la LTDH et coordonnateur de la Fédération de Jendouba du Forum démocratique pour le travail et les libertés (FDTL). Selon les informations reçues, le 16 septembre 2005, des agents de police en civil auraient encerclé le cabinet de M<sup>e</sup> Hédi Menai, lui en interdisant l'accès alors qu'il était accompagné d'un notaire et de clients. Le procureur de la République du tribunal de Jendouba, appelé par M<sup>e</sup> Menai, aurait refusé d'intervenir et d'enregistrer sa plainte, lui recommandant de s'adresser au commissaire de police de Jendouba responsable de l'encerclement du cabinet. Le 18 septembre 2005, le chauffeur de M<sup>e</sup> Hédi Menai, M. Fethi Taboui, aurait été arrêté. Après que M<sup>e</sup> Menai aurait apporté la preuve que M. Taboui ne pouvait être impliqué dans l'affaire dont il était accusé, la police aurait invoqué d'autres affaires. Il aurait finalement été libéré le 21 septembre 2005. Une plainte déposée pour détention arbitraire aurait été classée par le parquet. Des craintes ont été exprimées que cette arrestation n'ait visé à immobiliser M<sup>e</sup> Menai, qui se trouve dans l'impossibilité de conduire à cause d'un handicap à la jambe. En outre, depuis près de cinq mois, M<sup>me</sup> Leila Ayadi, secrétaire de M<sup>e</sup> Menai, serait régulièrement abordée par les agents de police qui insisteraient pour qu'elle quitte son emploi dans ce cabinet. Il a été rapporté également que des policiers en civil ainsi que des agents officiels du commissariat de Jendouba encercleraient le siège du cabinet de M<sup>e</sup> Menai, afin de dissuader ses clients d'avoir recours à son conseil. De vives craintes ont été exprimées que ces actes ne visent à empêcher M<sup>e</sup> Menai d'exercer son activité de défenseur des droits de l'homme. En particulier, selon les informations reçues, ces actes d'intimidation auraient pris une nouvelle ampleur depuis que M<sup>e</sup> Menai se serait constitué comme avocat de la famille de M. Moncef Louhichi, mort en détention à Tabarka, le 16 juin 2005. En particulier, en juin 2005, le gouverneur de Jendouba ainsi que le maire de Tabarka seraient intervenus auprès de la famille de M. Louhichi pour l'inciter à retirer l'affaire à M<sup>e</sup> Menai. Malgré ces pressions, la famille aurait maintenu le choix de son avocat.

527. Le 11 novembre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur la question de la torture, a envoyé une communication concernant la situation de M<sup>e</sup> **Mokhtar Trifi**, Président de la LTDH, M<sup>e</sup> **Mohamed Jmour**, membre du Conseil national de l'ordre des avocats, et M<sup>e</sup> **Khémaïs Chammari**, ancien vice-président de la FIDH, et la répression, le 8 novembre 2005, d'un rassemblement en soutien à l'action des grévistes de la faim dits «du 18 octobre 2005». Selon les informations reçues, les policiers en civil et en uniforme présents auraient violemment pris à partie les manifestants. En particulier, M<sup>e</sup> Mokhtar Trifi aurait été traîné sur le sol et frappé au niveau des yeux, devant sa

femme et sa fille. M<sup>e</sup> Mohamed Jmour, qui tentait de venir en aide à son confrère, aurait également été agressé et un journaliste français, présent sur les lieux et qui filmait les actes des policiers, se serait fait arracher son sac et sa caméra. MM. Mounir Fallah, Chawki Laarif et Salah Belhouichet, militants de l'Union générale des étudiants de Tunisie (UGET) auraient aussi été agressés, arrêtés et brièvement détenus. Selon les rapports nous étant parvenus, vers 11 heures, un huissier de justice se serait présenté à l'étude de M<sup>e</sup> Ayachi Hammami, Président du Comité de soutien à M<sup>e</sup> Mohamed Abbou et secrétaire général de la section de Tunis de la LTDH, afin de lui remettre la demande de la propriétaire de quitter les locaux dans les 24 heures, au motif que l'usage actuel qui en est fait ne correspond pas à celui inscrit dans son bail. Cette notification qui n'émanerait pas d'une décision judiciaire et ne présenterait aucune valeur légale exigerait également la «cessation immédiate de toute activité non conforme à la nature du bail, sous 24 heures». Le bureau de M<sup>e</sup> Hammami tiendrait lieu de siège à M<sup>e</sup> Ayachi Hammami lui-même, MM. Ahmed Néjib Chabbi, Secrétaire général du Parti démocratique progressiste (PDP), Abderraouf Ayadi, Secrétaire général du parti du Congrès pour la République (CPR), Hama Hammami, porte-parole du Parti communiste ouvrier tunisien (PCOT), Mohamed Nouri, Président de l'Association internationale de soutien aux prisonniers politiques (AISPP), Samir Dilou, membre du bureau de l'AISPP et du Comité de défense de M<sup>e</sup> Abbou, Mokhtar Yahyaoui, magistrat et Président du Centre pour l'indépendance de la justice (CIJ) et Lofti Hajji, Président du Syndicat des journalistes tunisiens (SJT), tous en grève de la faim depuis le 18 octobre 2005. Ces derniers protesteraient contre la détérioration de l'état des libertés en Tunisie et revendiqueraient, entre autres, le respect du droit de réunion et d'association, la reconnaissance de tous les partis politiques, le respect des droits d'opinion, d'information, de communication, ainsi que la libération de l'ensemble des prisonniers politiques.

528. Le 14 novembre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant la situation de M. **Christophe Boltanski**, envoyé spécial du quotidien français *Libération*. Selon les informations reçues, le 11 novembre 2005 dans la soirée, M. Christophe Boltanski aurait été agressé et poignardé, à proximité de son hôtel, par quatre inconnus dans le quartier des ambassades de Tunis. Les quatre hommes l'auraient aspergé d'un gaz lacrymogène, frappé notamment au visage et lui auraient donné un coup de couteau dans le dos. Les agresseurs auraient emporté ses affaires, notamment ses carnets de notes, son téléphone et sa clef USB. M. Boltanski aurait appelé au secours mais les nombreux policiers en faction devant l'hôtel et les ambassades à proximité ne seraient pas intervenus. Malgré le fait que le quartier ait été quadrillé par la police, les agresseurs auraient aisément disparu. Le reporter français, très choqué, aurait été soigné pour de multiples contusions et une plaie dans le dos et serait rentré en France. Une plainte aurait été déposée au commissariat. Des craintes ont été exprimées que cette attaque ne soit liée au travail en faveur des droits de l'homme du journaliste. Christophe Boltanski enquêtait sur les droits de l'homme en Tunisie à la veille du Sommet mondial sur la société de l'information (SMSI) qui se tenait à Tunis la semaine suivante. Le matin même, il avait publié un article concernant l'intervention musclée de la police qui avait attaqué un groupe des défenseurs des droits de l'homme qui soutenaient les huit personnalités de l'opposition et activistes des droits de l'homme qui, depuis le 18 octobre, observent une grève de la faim. Ces craintes sont d'autant plus vives que ces événements surviennent dans un contexte d'attaques répétées contre la liberté de la presse et les activistes des droits de l'homme.

529. Le 14 novembre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant M. **Robert Ménard**, Secrétaire général de Reporters sans Frontières, une organisation qui dispose du statut consultatif auprès du Conseil économique et social des Nations Unies. Selon les informations reçues, le 10 novembre 2005, Robert Menard se serait vu notifier la décision des autorités tunisiennes d'interdire son entrée dans le pays pour participer au SMSI. Les autorités tunisiennes argueraient qu'en raison de l'instruction d'une plainte à son encontre déposée auprès du procureur de la République à Tunis, sous le numéro 7062269/2002, en date du 9 juillet 2002, M. Ménard ne pourrait prétendre entrer en Tunisie qu'à la convocation de l'instance judiciaire en charge de cette affaire. Cette décision risquerait de porter atteinte au libre accès de M. Ménard et des représentants de Reporters sans Frontières au SMSI devant se tenir du 16 au 18 novembre 2005. Les experts ont demandé instamment aux autorités tunisiennes de prendre toutes les mesures nécessaires pour assurer que la liberté d'expression et de réunion soient garantie en Tunisie, en particulier en garantissant l'accès des médias et de la société civile tunisiens et internationaux au Sommet qui s'ouvre le mercredi 16 novembre 2005 à Tunis.

530. Le 18 novembre 2005, la Représentante spéciale du Secrétaire général, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a envoyé une communication concernant l'obstruction à la tenue de la réunion parallèle au **Sommet mondial pour la société de l'information** organisée par la société civile. Selon les informations reçues, le 14 novembre 2005 à Tunis, des dizaines de policiers en civil auraient entouré l'Institut Goethe, centre culturel allemand, et auraient empêché, parfois par la force, la société civile nationale et internationale d'organiser une réunion parallèle au SMSI et d'entrer dans le bâtiment en question. Les forces de sécurité auraient en particulier empêché Marianne Klaric et Jean-Jacques Mathi, reporters de la télévision belge, ainsi que l'avocate tunisienne militante des droits de l'homme Radia Nasraoui de se rendre à la réunion en encerclant leur voiture. Les policiers auraient tapé contre la voiture et crié des insultes à M<sup>me</sup> Nasraoui. Alors que l'un des journalistes était en train de filmer, des officiers de sécurité habillés en civil lui auraient arraché sa caméra devant la salle de la réunion, avant de confisquer une cassette vidéo contenant un certain nombre de reportages qui avaient été tournés auparavant. Les deux journalistes préparaient un reportage pour la télévision de service public belge RTBF.

### **Communications reçues**

531. Le 14 novembre 2005, le Gouvernement a répondu à la communication du 25 janvier 2005. Le Gouvernement a affirmé que la Tunisie a toujours autorisé l'existence de formations et d'organisations de défense des droits de l'homme à condition que leur action soit conforme aux dispositions légales en vigueur. Les associations tunisiennes, légalement établies, exercent leurs activités et tiennent leurs réunions dans des conditions tout à fait normales. S'agissant du **Conseil national pour les libertés en Tunisie** (CNLT), le Gouvernement a précisé que cette formation n'avait pas d'existence légale en Tunisie, dans la mesure où un arrêté du Ministre de l'intérieur avait fait opposition à sa constitution, en raison du non-respect par ses fondateurs des conditions légales requises pour sa création. Un recours en annulation dudit arrêté a été introduit devant le tribunal administratif et l'affaire suivait son cours au moment de cette réponse. Le Gouvernement a indiqué que, nonobstant le caractère illégal de cette formation, certains de ses membres avaient essayé, le 11 décembre 2004, de tenir une réunion clandestine au domicile de

l'un d'entre eux. Une brigade mobile de la police a dû intervenir suite à la demande des voisins qui se sont plaints des nuisances provoquées par les participants à cette réunion, sachant que la mise à disposition d'un domicile pour des activités non déclarées est passible, en droit tunisien, de sanctions pénales. Pour ce qui est des plaintes déposées par certaines personnes, se disant membres du CNTL, le Gouvernement a souligné que M. Ayadi s'était effectivement présenté, le 15 janvier 2005, au commissariat de police d'El Kram, en vue de déposer une plainte pour violation de domicile appartenant à l'un de ses clients, résident à l'étranger. Un procès-verbal a été dressé à ce sujet le même jour. Cependant, le Gouvernement a indiqué que, contrairement aux allégations, M. Ayadi n'avait introduit aucune plainte auprès dudit commissariat concernant les prétendues «insultes et menaces» qui auraient été proférées à son encontre par un «délinquant». Il en est d'ailleurs de même concernant le supposé «appel anonyme le menaçant de mort» et les allégations «de menaces et d'actes d'harcèlement répétés» dont la communication faisait état et qui n'ont, selon le Gouvernement, jamais été signalés aux autorités compétentes. Pour ce qui est de la «résiliation sans préavis du contrat de location du cabinet de M. Ayadi» par une compagnie d'assurances, le Gouvernement a précisé que cette question était du ressort de la justice, seule habilitée à se prononcer sur ce litige d'ordre strictement privé. En outre, le Gouvernement a souligné que M<sup>e</sup> Ayadi, juriste et avocat, n'avait pas engagé d'action en justice concernant les faits qu'il a avancés. S'agissant des allégations se rapportant à M. Mongi Ben Salah, le Gouvernement a précisé que sa plainte a été enrôlée sous le numéro 2005/7004628. L'intéressé a été ensuite reçu par le procureur de la République près du tribunal de première instance de Tunis, qui a procédé, officiellement, à son audition. L'affaire suivait son cours lors de l'envoi de cette réponse.

532. Le 14 novembre 2005, le Gouvernement a répondu à la communication du 25 février 2005. Le Gouvernement a affirmé que M. **Abdallah Zouari** a été impliqué dans une affaire criminelle liée à ses activités au sein du mouvement intégriste et terroriste Ennadha, et ce, pour complicité dans la préparation d'une conspiration ayant pour but de changer la forme de gouvernement ainsi que pour appartenance à une organisation illégale, planifiant des actes d'agression contre les personnes et les biens. Se basant sur les aveux de l'intéressé et sur les résultats des enquêtes menées, établissant sa complicité dans la préparation et le commencement d'exécution du plan terroriste précité, le tribunal compétent l'a condamné, le 27 août 1992, à 11 ans d'emprisonnement et à 5 ans de contrôle administratif pour les chefs d'inculpation retenus contre lui, en application des articles 32 et 72 du Code pénal et de la loi n<sup>o</sup> 1959-154 du 7 novembre 1959. M. Abdallah Zouari a eu droit, tout au long de la procédure, à toutes les garanties nécessaires d'un procès équitable telles que prévues par la loi en vigueur. Après la libération de l'intéressé, le 6 juin 2002, l'autorité administrative compétente a fixé, par arrêté en date du 15 juillet 2002 et conformément au jugement du 27 août 1992, le lieu de résidence de M. Abdallah Zouari à la région de «Kassiba Hassi Jerbi» à Zarzis, dont il est originaire et lieu de sa résidence initiale qu'il a déclaré lui-même au moment de son arrestation, et ce, pour toute la période du contrôle administratif. Il ressort, par ailleurs, des éléments recueillis à ce sujet que M. Abdallah Zouari n'a jamais présenté de demande aux autorités compétentes en vue de changer le lieu de sa résidence de «Kassiba Hassi Jerbi» à Zarzis, vers Tunis. Face au refus répétitif de l'intéressé de se conformer à l'arrêté en question, le juge cantonal de Zarzis l'a condamné, dans deux affaires distinctes, à huit mois et à neuf mois d'emprisonnement, et ce, conformément à l'article 150 du Code pénal. Il y a lieu de noter que M. Abdallah Zouari a bénéficié, quant à sa première condamnation, d'une mesure de libération conditionnelle, et ce, pour des raisons humanitaires. Aussi, et contrairement aux allégations qui vous sont parvenues,

M. Abdallah Zouari n'a jamais été journaliste, et n'a jamais eu la carte professionnelle de journaliste, comme il n'a jamais exercé véritablement cette profession. Il a tout simplement publié quelques articles dans le journal *El Fajr*, organe du mouvement Ennahdha. Il s'attribue cette qualité professionnelle afin de profiter du soutien d'un corps auquel il n'a jamais appartenu. Enfin, il est établi que M. Abdallah Zouari n'a jamais été empêché de recevoir ou de rencontrer ses amis ou les membres de sa famille.

533. Le 29 août 2005, le Gouvernement a répondu à la communication de 9 mars 2005. Le Gouvernement a indiqué que M<sup>e</sup> **Abbou** avait comparu le 2 mars 2005 devant le juge d'instruction près du tribunal de première instance de Tunis. L'intéressé a fait l'objet d'une instruction déclenchée par le parquet de Tunis sur la base d'une plainte déposée à son encontre par l'une de ses consœurs pour violences caractérisées ayant occasionné des préjudices corporels nécessitant l'admission de celle-ci aux urgences médicales et un arrêt de travail pendant un mois. Il a été également mis en examen pour diffamation des autorités judiciaires et incitation de la population à enfreindre les lois. Traduit devant la chambre correctionnelle près du tribunal de première instance de Tunis le 28 avril 2005, il a été condamné à deux ans de prison ferme pour violences caractérisées sur sa consœur ayant entraîné une incapacité permanente de 10 % et à 18 mois de prison pour diffamation des autorités judiciaires et diffusion de fausses nouvelles de nature à perturber l'ordre public. La peine a été confirmée en appel le 10 juin 2005. Il convient de souligner que la procédure judiciaire ayant abouti à la condamnation de M<sup>e</sup> Abbou s'est déroulée conformément aux règles de procédure en vigueur et en plein respect des garanties de défense. Par ailleurs, l'intéressé a bénéficié depuis son incarcération de toutes les garanties légales, notamment le droit à être soumis à un examen médical, à s'entretenir régulièrement avec ses avocats et à recevoir la visite de ses proches.

534. Par lettre datée du 23 septembre 2005, le Gouvernement tunisien a répondu à la communication en date du 24 mars 2005 concernant M. **Khemais Ksila**. Il a indiqué que l'Institut arabe des droits de l'homme avait informé le Gouvernement qu'il avait été mis fin aux activités de M. Ksila comme membre de son conseil d'administration. Le Gouvernement a indiqué que ce dernier, ancien membre du comité directeur de la Ligue tunisienne des droits de l'homme, avait été impliqué dans une affaire criminelle suite à une plainte portée par une secrétaire de ladite organisation. La plaignante aurait déclaré avoir été harcelée par M. Ksila. Sur la base de la plainte, le procureur avait ouvert une procédure pour attentat à la pudeur avec violence et tentative de viol. Lors de son audition par le juge d'instruction, la plaignante aurait confirmé le contenu de sa plainte. Le juge d'instruction a entendu certains témoins, dont l'ancien président de la Ligue et des membres de son ancien comité directeur, qui auraient confirmé que la plaignante leur avait fait part de cette affaire par le passé et auraient indiqué que la plaignante était connue pour sa bonne conduite. Le Gouvernement a informé la Représentante spéciale du Secrétaire général qu'en l'absence du prévenu sur le territoire, le juge d'instruction avait été dans l'impossibilité de l'interroger et avait décidé, en date du 8 septembre 2001, de déférer M. Ksila en état de fuite devant la chambre d'accusation de Tunis pour tentative de viol. Un mandat d'amener a été délivré et l'audience a finalement été fixée pour le 12 février 2002. L'inculpé a été condamné par défaut à 10 ans d'emprisonnement et 5 000 dinars de dédommagement. Le Gouvernement a donc informé la Représentante spéciale du Secrétaire général que la procédure judiciaire ayant abouti à la condamnation de l'intéressé s'est déroulée conformément aux règles de procédure en vigueur et qu'au vu de cette condamnation et de sa fuite à l'étranger, la demande de renouvellement de passeport faite par M. Ksila avait été refusée.

535. Le 5 septembre 2005, le Gouvernement a répondu à la communication du 16 juin 2005. Le Gouvernement a indiqué que M. **Abbou** avait fait l'objet d'une instruction déclenchée par le parquet de Tunis sur la base d'une plainte déposée à son encontre par l'une de ses consœurs pour violences caractérisées ayant occasionné des préjudices corporels nécessitant l'admission de celle-ci aux urgences médicales et un arrêt de travail d'un mois. Il a été également mis en examen pour diffamation des autorités judiciaires et incitation à enfreindre les lois du pays. L'intéressé a comparu, le 2 mars 2005, en présence d'un nombre important d'avocats, devant le juge d'instruction près du tribunal de première instance de Tunis, qui a donné suite favorable à la demande de report formulée par le prévenu pour permettre à ses avocats de mieux préparer sa défense. M. Abbou a comparu de nouveau, le 16 mars 2005, devant le juge d'instruction, qui a autorisé, pour les besoins du bon déroulement de l'instruction, et en application des prérogatives qui lui sont reconnues par la loi, à 17 de ses avocats d'assister à l'interrogatoire. Cette décision a été contestée par le prévenu, qui avait refusé, dans le but de perturber le bon déroulement de l'instruction, de se soumettre à l'interrogatoire sous prétexte que tous ses avocats n'étaient pas présents. Devant l'impossibilité matérielle d'accueillir tous les avocats de la défense et devant le refus de l'intéressé de ne répondre qu'en présence de l'ensemble des avocats constitués dans l'affaire, le juge d'instruction a dû rappeler au prévenu les dispositions de la loi qui l'autorisent à poursuivre la procédure sans tenir compte de son refus de répondre. Par ailleurs, l'un des avocats présents s'était opposé à la présence du représentant du ministère public à l'interrogatoire, opposition formulée par l'avocat en question en méconnaissance des dispositions de l'article 73 du Code de procédure pénale, qui permet expressément au procureur de la République d'assister aux interrogatoires et confrontations de l'inculpé. Le 23 avril 2005, le juge d'instruction a décidé la clôture de l'instruction et le renvoi du prévenu, sur la base des éléments du dossier, devant la chambre correctionnelle près du tribunal de première instance de Tunis pour coups et blessures suivis d'une incapacité partielle et permanente dont le taux ne dépasse pas 20 %. Dans le cadre de la deuxième affaire, le juge d'instruction s'est heurté au refus catégorique de M. Abbou, qui, par ses écrits et son attitude, s'est rendu coupable de diffusion de fausses nouvelles et diffamation des autorités judiciaires. Traduit devant la chambre correctionnelle le 28 avril 2005, l'intéressé a été condamné à deux ans de prison ferme pour violences caractérisées sur sa consœur ayant entraîné une incapacité permanente dont le taux ne dépasse pas 20 % et à 18 mois de prison pour diffamation des autorités judiciaires, diffusion de fausses nouvelles et incitation de la population à enfreindre les lois. L'intéressé a interjeté appel de ce jugement. Il a comparu, le 10 juin 2005, en état d'arrestation, devant la chambre correctionnelle près de la cour d'appel de Tunis. Lors de l'examen de la première affaire, l'accusé a refusé de répondre à la cour. La présidente de l'audience a dû, en application de l'article 148 du Code de procédure pénale, passer outre son silence et donné la parole à l'un des avocats de la défense qui a plaidé au profit de son client. Par la suite, la présidente de l'audience a voulu donner la parole à un autre avocat de la défense. Néanmoins, l'un des confrères de ce dernier s'y était opposé, perturbant ainsi le cours normal de l'audience, chaque avocat voulant être le premier à plaider. Devant ce désaccord et le chahut qui s'en est suivi, la présidente de l'audience a décidé, sur la demande du parquet, la levée momentanée de l'audience jusqu'à ce que l'ordre soit établi. Dès retour au calme, l'audience a repris en présence des avocats de l'intéressé qui ont présenté certaines demandes formelles. Leurs demandes rejetées, les avocats de la défense ont décidé de se retirer; deux d'entre eux seulement et quelques observateurs étaient demeurés dans la salle. La cour a, par la suite, procédé à l'examen de la seconde affaire. L'accusé a reconnu la diffusion de l'écrit objet des poursuites. Quant aux deux avocats qui étaient demeurés à ses côtés, ils ont refusé de présenter leurs plaidoiries. Après délibération, la cour a confirmé le jugement rendu par le

tribunal de première instance de Tunis, tant sur le plan civil que pénal, arrêt devenu, par ailleurs, définitif en l'absence de pourvoi de la part du prévenu ou du procureur général près la cour d'appel de Tunis. Il ressort de ce qui précède que la détention de M. Abbou n'est point arbitraire puisque la procédure judiciaire, ayant abouti à la condamnation de l'intéressé, s'est déroulée conformément aux règles de procédure en vigueur et en plein respect des garanties de défense. Par ailleurs, l'intéressé bénéficie, depuis son incarcération, de toutes les garanties légales, notamment les droits à être soumis à un examen médical, à s'entretenir régulièrement avec ses avocats et à recevoir la visite de ses proches.

536. Par lettre en date du 25 août 2005, le Gouvernement tunisien a répondu à une communication en date du 25 juillet concernant la situation de l'**Institut arabe des droits de l'homme**. Il a indiqué que l'IADH avait régularisé la situation de son conseil d'administration se conformant aux dispositions de la législation en vigueur et qu'il avait de ce fait pu disposer de tous les fonds qui lui avaient été transférés de l'étranger. Le Gouvernement a néanmoins rappelé que l'IADH avait mené depuis sa création ses activités de façon normale et avait pu recevoir sans restriction un nombre important de fonds émanant de divers organismes internationaux non gouvernementaux et intergouvernementaux. Cependant, depuis le 12 février 2002, l'IADH avait continué de faire figurer M. Ksila parmi les membres de son conseil d'administration alors que ce dernier avait été condamné à une peine d'emprisonnement de 10 ans et été privé de ses droits politiques et civils conformément à la législation en vigueur. Le Gouvernement a mentionné que, depuis avril 2002, il avait à maintes reprises attiré l'attention du président de l'IADH sur la situation et l'avait appelé à s'y conformer. Le Gouvernement a également assuré qu'il appuyait et encourageait l'activité associative au sein du pays.

537. Le Gouvernement tunisien a répondu à l'appel urgent du 7 septembre 2005 concernant l'**Association des magistrats tunisiens** par lettre en date du 16 novembre 2005. Il a informé la Représentante spéciale du Secrétaire général que l'AMT était une association soumise à la loi du 7 novembre 1959 qui avait pour objectif de défendre les intérêts professionnels et moraux des magistrats et de promouvoir la profession par l'amélioration des conditions de travail et l'encouragement à la recherche. L'Association, qui siège au palais de justice de Tunis, est dirigée par un conseil national élu pour deux ans et composé d'un bureau exécutif et d'un comité administratif. Selon le Gouvernement, l'indépendance de l'Association a toujours été respectée depuis sa création et c'est justement à cause de la remise en question de cette indépendance par le bureau actuel que les magistrats se seraient réunis en assemblée générale extraordinaire sur demande de deux tiers des membres et auraient voté une motion de retrait de confiance au bureau et l'appel à un congrès exceptionnel. En application des décisions prises par ladite assemblée générale, un comité élu par les magistrats présents a été chargé de gérer provisoirement les questions en suspens de l'Association et de préparer le congrès. Suite au refus injustifié du président de remettre les clefs du siège au comité provisoire, ce dernier a déposé une demande au représentant de l'autorité judiciaire qui fut exécutée le 1<sup>er</sup> septembre 2005. Par ailleurs, concernant les mutations de certains magistrats, le Gouvernement a indiqué que ces mutations entrent dans le cadre d'un mouvement judiciaire ordinaire décidé par le Conseil supérieur de la magistrature. Cependant, le Gouvernement a précisé que, suite à une très grande demande de mutation pour les tribunaux de la capitale et soucieux de préserver l'égalité entre magistrats, le Conseil de la magistrature a décidé, lors du dernier mouvement ordinaire, de muter un nombre élevé de magistrats travaillant depuis longtemps dans la capitale, dont certains faisant partie du bureau exécutif de l'Association. Par ailleurs, le Gouvernement a rappelé que l'indépendance de

la magistrature était garantie par l'article 65 de la Constitution et mis en application au niveau de la désignation des membres du Conseil supérieur de la magistrature ainsi que par le pouvoir décisionnel reconnu au Conseil supérieur dans la mesure où ce dernier prend des décisions exécutoires en matière de nomination, avancement, mutation et discipline.

### **Suivi des communications envoyées les années précédentes**

538. Le 15 avril 2005, le Gouvernement a répondu à la communication envoyée le 11 juin 2004 concernant M<sup>me</sup> **Radia Nasraoui**, M. **Ali Ben Salem** et M. **Ridha Barkati**. Selon le Gouvernement, les allégations contenues dans la communication sont dénuées de tout fondement. Le 8 juin 2004, Radia Nasraoui, Ali Ben Salem et Ridha Barkati se sont présentés au bureau d'accueil du gouvernorat de Tunis sollicitant de rencontrer le Gouverneur. L'agent d'accueil leur ayant indiqué qu'il était absent, il leur a demandé l'objet de leur démarche pour les orienter vers un fonctionnaire habilité à les recevoir. M<sup>me</sup> Nasraoui a refusé et s'est emportée en s'attaquant verbalement aux symboles de la Tunisie et aux membres du Gouvernement devant l'institution, créant un attroupement. L'agent responsable est intervenu pour rappeler les intéressés à l'ordre. M<sup>me</sup> Nasraoui a fait fi des injonctions et s'est même refusée à quitter les lieux alors que le travail avait pris fin, amenant le personnel à intervenir de nouveau.

539. Par lettre datée du 15 avril 2005, le Gouvernement a répondu à la communication du 22 novembre 2004 concernant M<sup>me</sup> **Radia Nasraoui**. Le Gouvernement précise que «l'association de lutte contre la torture en Tunisie» et le «comité de défense de Jalel et Néjib Zoghلامي et Lumbaba Mohsni» n'ont aucune existence légale en Tunisie. Par conséquent, toute personne entreprenant des activités en leur nom est en infraction avec la loi et passible de poursuites judiciaires. Les personnes en faveur desquelles le comité de défense a été créé sont impliquées en justice dans des affaires de droit commun qui suivent leur cours normalement. Concernant l'organisation d'une réunion de ce «comité» au domicile de M<sup>me</sup> Nasraoui, des voisins ce sont plaints le 17 novembre 2004 auprès des services de police de certaines nuisances ayant perturbé leur tranquillité. Il s'est avéré par la suite que M<sup>me</sup> Nasraoui avait mis à disposition son domicile pour une réunion non autorisée. Il a par conséquent été demandé à M<sup>me</sup> Nasraoui de respecter les règles de cohabitation entre colocataires en attirant son attention sur le fait que la mise à disposition de son domicile pour ce cas est passible de poursuites judiciaires. En ce qui concerne le vol de son téléphone portable, M<sup>me</sup> Nasraoui a déposé une plainte contre X le 25 octobre auprès du commissariat de police et sa déposition a été consignée dans un procès-verbal. La plainte a été transmise à la police judiciaire qui poursuit ses investigations à ce propos. Les allégations «d'harcèlement ou de surveillance» sont dénuées de tout fondement. M<sup>me</sup> Nasraoui exerce sa profession de façon normale, se déplace librement à l'étranger et s'exprime en toute liberté avec les représentants de la presse tunisienne et étrangère.

540. Par lettre en date du 15 avril 2005, le Gouvernement tunisien a répondu à un appel urgent du 7 mai 2004 concernant la **Ligue tunisienne des droits de l'homme**. Il a indiqué que la LTDH faisait l'objet d'une décision judiciaire prononcée par la cour d'appel de Tunis le 21 juin 2001 limitant les prérogatives de sa direction actuelle à la préparation de la prochaine assemblée générale électorale. Il a noté que cette affaire émanait d'une action en justice intentée auprès du tribunal en instance de Tunis par certains adhérents de la LTDH ayant abouti à l'annulation de la tenue de l'assemblée générale de la Ligue en 2000 pour violations principales de certains de ses statuts. Après plusieurs audiences et plaidoiries, le tribunal a rendu son jugement le 12 février

2001 annulant l'assemblée générale d'octobre 2000 et décidé de la tenue d'une nouvelle assemblée conformément au règlement interne de l'association. En ce qui concerne le financement de la LTDH, le Gouvernement a précisé que la réglementation en vigueur, notamment la loi du 7 novembre 1959, exigeait l'obtention préalable d'une autorisation du Ministère de l'intérieur à laquelle la LTDH ne se serait pas conformée. Par ailleurs, le Gouvernement a ajouté que, en vue de permettre à la Ligue de régulariser sa situation, les autorités avaient décidé de maintenir provisoirement en dépôt les fonds destinés à son financement par la Commission européenne auquel il lui sera donné accès une fois la situation résolue.

541. Par lettre en date du 15 avril 2005, le Gouvernement tunisien a répondu à une communication en date du 13 juillet 2004 concernant **certaines organisations de défense des droits de l'homme**. Concernant la constitution d'associations en Tunisie, le Gouvernement a informé que celle-ci était régie par la loi du 7 novembre 1959 et que la Tunisie avait toujours respecté l'existence de formations et d'organisations des droits de l'homme pour autant que leur action soit conforme aux dispositions légales en vigueur. Il a signalé que les associations dûment établies tenaient leurs réunions librement. Concernant l'Association internationale de soutien aux prisonniers politiques (AISPP), le Rassemblement pour une alternative internationale de développement (RAID/ATTAC Tunisie) ou encore l'Association de lutte contre la torture en Tunisie (ALTT), le Gouvernement a souligné que ces formations n'avaient aucune existence légale en Tunisie et que, par conséquent, toute personne entreprenant en leur nom une activité quelconque était passible de poursuites. Outre la tenue de réunions non autorisées, l'AISPP aurait, selon le Gouvernement tunisien, publié à plusieurs reprises des informations erronées et tendancieuses sur le pays. Le Gouvernement a également argué que l'AISPP défendait des terroristes formant des comités de solidarité en leur faveur, les incitant à entamer des grèves de la faim et à présenter de faux témoignages à des parties étrangères dans le but de porter atteinte à l'image de la Tunisie. Le Gouvernement a également donné des exemples de ces activités. Dans ce cadre, des poursuites judiciaires contre MM. Nouri et Yahiaoui ont été engagées en raison de leur implication dans ces fausses nouvelles. Le Gouvernement a informé que l'Organisation mondiale contre la torture (OMCT), induite en erreur par ces fausses informations, a exprimé ses regrets et adressé ses excuses. S'agissant de l'ALTT, le Gouvernement a indiqué qu'aucun dossier de constitution n'avait été déposé et que M<sup>me</sup> Nasraoui, M. Ben salem et M. Barkati se seraient présentés le 8 juin 2004 au bureau d'accueil du gouvernorat de Tunis demandant à rencontrer le Gouverneur en personne, qui était absent. Le Gouvernement a précisé que M<sup>me</sup> Nasraoui se serait emportée et se serait attaquée au symbole de la Tunisie et aux membres du Gouvernement. Un agent serait alors intervenu pour rappeler les intéressés à l'ordre, mais M<sup>me</sup> Nasraoui se serait refusée à quitter les lieux alors même le travail aurait pris fin. Il lui aurait été demandé d'évacuer les lieux. Concernant le Conseil national pour les libertés en Tunisie, le Gouvernement a indiqué qu'en date du 16 décembre 1998 une déclaration avait été déposée mais que le Ministre de l'intérieur aurait décidé, le 2 mars 1999, de s'opposer à la constitution de l'association en raison du non-respect des conditions requises et de la non-conformité de certaines clauses des statuts avec les lois. Le 29 avril 1999, les fondateurs auraient déposé un recours et l'affaire suivrait son cours.

542. Le Gouvernement tunisien a répondu à l'appel urgent du 21 juillet 2004 concernant **Chokri Ltaief** par lettre en date du 15 avril 2005. Il a indiqué que l'Association de lutte contre la torture en Tunisie n'avait aucune existence légale et que, par conséquent, toute personne

entreprenant en son nom une activité était en infraction avec la loi. M. Ltaief néanmoins se présente comme son secrétaire général et membre fondateur et continue à signer des communiqués de presse pour cette formation; en conséquence, les autorités ont attiré son attention sur l'illégalité de ses agissements le rendant passible de poursuites judiciaires.

543. La Représentante spéciale du Secrétaire général remercie le Gouvernement tunisien pour ses promptes réponses à la plupart de ses communications. Elle prend bonne note des informations apportées par le Gouvernement. Néanmoins, en dépit de ces éclaircissements, elle demeure profondément préoccupée par les apparentes violations à la liberté d'association, d'expression et de réunion des défenseurs des droits de l'homme en Tunisie.

544. La Représentante spéciale du Secrétaire général regrette que le Gouvernement tunisien n'ait toujours pas répondu favorablement à sa demande d'invitation afin d'effectuer une visite officielle dans le pays pour pouvoir évaluer la situation des défenseurs des droits de l'homme.

## Turkey

### Communications sent

545. On 17 February 2005, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning Mr. **Hüseyin Aygün**, a lawyer and former head of the local Bar Association of Lawyers in Tünceli province, south eastern Turkey who has worked with victims of alleged human rights violations including torture and "disappearances" and is currently working on behalf of the families of seven people who allegedly "disappeared" from Midrik village in Tünceli while Turkish army commanders were operating in the area in September 1994. According to the information received, on 3 February 2005, the Commander of Gendarmie forces, in Tünceli province visited the workplace of a relative of Mr. Aygün and told them that Mr. Aygün was "a traitor to the country", "an enemy of the state" and stated that "soon you'll see that we have discredited him". On 7 February 2005, in a meeting with Mr. Aygün, the Gendarmerie commander reportedly threatened him to stop "going against us in every incident. OK, you are doing your job but don't do it any more – just leave it to others". Further, on 11 February 2005, three members of the gendarmerie wearing plain clothes visited Mr. Aygün and told him that the Gendarmerie Commander wished to meet him again. When Mr. Aygün telephoned the Gendarmerie Commander he allegedly stated: "I have in my hands some solid evidence, this time there's no saving you. However, I'm hesitant as to whether or not I should transfer these files to the Prosecutor... perhaps if you listen to us we can come to some agreement with you." Concern was expressed that the reported harassment and threats to Mr. Hüseyin Aygün and one of his relatives may represent attempts to prevent Mr. Aygün from carrying out human rights defence activities and in particular his work on behalf of the families of seven people who allegedly "disappeared" from Midrik village in Tünceli in September 1994.

546. On 4 March 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Sandra Bakutz**, an Austrian journalist for Radio Orange 94.0 and Junge Welt, a German newspaper. According to information received, Sandra Bakutz, in her capacity as a journalist for

Radio Orange 94.0, travelled to Turkey as part of a delegation organised by the International Platform Against Isolation (IPAI), to attend the trial of 82 activists who were arrested on 1 April 2004 in an international police operation carried out against the DHKP-C (Revolutionary People's Liberation Party-Front), a far-left movement classified as a terrorist organisation by the United States and the European Union. IPAI is an international organisation which defends Turkish political prisoners. It is reported that on 10 February 2005, as Sandra Bakutz disembarked from her flight from Vienna at Atatürk International Airport in Istanbul, she was immediately arrested on charges of belonging to an illegal organisation, the DHKP-C. On 11 February 2005, Sandra Bakutz was brought for indictment before the Court for Heavy Penalties (formerly the Second State Security Court which was responsible for trying Turkish political prisoners and which had also reportedly issued, in September 2001, an arrest warrant for Sandra Bakutz). It was alleged that, on 16 February 2005, she was taken to the Pasakapisi detention centre and was subsequently transferred to a prison in Gebze, 50 km south of Istanbul, in a cell awaiting trial with ten other political prisoners without the right to make phone calls and with no contact with the outside world. On 28 February 2005, the Austrian Ambassador and the Austrian Consul General went to visit her in prison; The Austrian Consul General was not allowed to see her. Moreover, it was reported that her hearing before a Judge has been postponed twice, without any official explanation given for this extended police custody. Her alleged membership of the DHKP-C has not as yet been proven. Concern was expressed that Sandra Bakutz's arrest and detention were directed at preventing her from investigating and reporting on a controversial aspect of the human rights situation in Turkey at a critical time when Turkey is negotiating membership with the European Union.

547. On 7 April 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent a letter of allegation concerning the alleged excessive use of force against a **group of approximately 500 individuals, including NGO members, syndicate leaders and political activists**, who participated in a demonstration organised by the Proletarian Women's Platform to mark International Women's day. According to the information received, on 6 March 2005, these individuals had gathered in Sarachane and Beyazit quarters of Istanbul, where they were calling for equal pay for women and equal treatment of women within Turkish society. Reportedly, the police intervened in the demonstration, allegedly due to the fact that the demonstration had not been authorised, using truncheons, pepper gas and physical force to disperse the group of approximately 500 individuals. Information indicated that approximately 60 individuals were arrested and that at least three people were hospitalized. The Special Representative welcomed the fact that the Government has opened an investigation into this incident. However, concern was expressed regarding the alleged excessive use of force by members of the police during this peaceful demonstration to celebrate International Women's Day.

548. On 22 April 2005, the Special Representative sent an urgent appeal regarding Ms. **Kiraz Biçici**, Vice-President of the Human Rights Association (Insan Haklari Dernegi, IHD), Ms. **Eren Keskin**, a lawyer and the President of the Istanbul branch of the IHD, Mr. **Saban Dayanan**, the Secretary of the Istanbul branch of the IHD, and Mr. **Dogan Genç**, the Coordinator of the IHD's activities in the Marmara region. The IHD is a non-Governmental organization that works on human rights violations allegedly carried out by the Government and armed opposition groups. Ms. Keskin was already subject to an urgent appeal sent by the Special Rapporteur on the

promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 10 November 2003, to which your Excellency's Government replied by letter dated 20 May 2004. According to the information received, on 19 and 21 April 2005, Ms. Biçici, Ms. Keskin, Mr. Dayanan and Mr. Genç received letters at their home and work addresses from the Turkish Revenge Brigade (Türk Intikam Tugayı), an alleged nationalist group. The letters reportedly refer to the attempt in May 1998 of the Turkish Revenge Brigade to assassinate the then IHD President, who was shot and critically injured. Allegedly, the letters state that Ms. Biçici, Ms. Keskin, Mr. Dayanan and Mr. Genç may not be as lucky as the IHD President was to survive. Concern was expressed that the alleged death threats against Ms. Kiraz Biçici, Ms. Eren Keskin, Mr. Saban Dayanan and Mr. Dogan Genç may represent attempts to prevent their human rights defence activities and in particular their work for the IHD.

549. On 31 August 2005, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent a letter of allegation concerning the **Tunceli Bar Association**, who worked with victims of alleged human rights violations including torture and "disappearances". The former head of the Tunceli Bar Association, Mr. Hüseyin Aygün, was the subject of an urgent appeal sent by the Special Rapporteur on the independence of judges and lawyers and Special Representative of the Secretary-General on the situation of human rights defenders on the 17 February 2005. According to the information received, on 24th June 2005, a taxi hit a land mine on the Batman Village road near Tunceli. The scene of the accident was investigated by members of the security forces who left notices on the wreckage of the taxi, some of which read: "Human rights defenders, have you seen this car? Tunceli Bar Association, why are you so silent? ... will they make a statement about this? We are waiting with interest". It was reported that the Tunceli Bar Association lodged a complaint regarding these notices with the State Prosecutor, who ordered their removal from the site. Concern was expressed that these notices threaten the legitimacy of the role of human rights defenders in Tunceli, and could lead others to question the role of human rights defenders which may result in threats and attacks aimed at people engaged in human rights activities.

550. On 30 September 2005, the Special Representative sent an urgent appeal concerning **Kaos GL Gay and Lesbian Cultural Research and Solidarity Organization**, based in Ankara, Turkey. This organization was established eleven years ago, and operates a drop-in centre providing social and cultural support to lesbian, gay, bisexual and transgender people, in addition to advocating for measures to end discrimination and violence. It also publishes a magazine that has been registered as a legal publication in Turkey since 1999. According to information received, on July 15 2005, "Kaos GL Gay and Lesbian Cultural Research and Solidarity Organization" applied to the Ministry of Interior for recognition as a non-Governmental organization. The Ministry initially approved the request, but now the Ankara Deputy Governor has responded by launching a lawsuit to close the organization. In a letter dated 15 September, Turkish officials threatened to close down the organization, on the grounds that it allegedly violates a provision in the Turkish Civil Code that forbids "establishing any organization that is against the laws and principles of morality." The letter stated that a court procedure had been opened to dissolve the organization. Concern was expressed that the reported court procedure was an attempt to close "Kaos GL Gay and Lesbian Cultural Research and Solidarity Organization" and impedes on the right to form, join and participate in non-

Governmental organizations, associations or groups, as set down in the Declaration on Human Rights Defenders.

### **Communications received**

551. In a letter dated 30 April 2005 the Government replied to the communication of 17 February 2005 concerning **Hüseyin Aygün**. The Government stated that on behalf of the Board of Governors of the Tunceli Bar Association, Mr. Bulent Taq, an attorney at law, applied to the Tunceli Public Prosecutor's Office on 14 February 2005 and informed that Mr. **Hüseyin Aygün**, member of the said association, was threatened by the Commander of the Gendarmerie Forces in Tunceli. Upon this denunciation **Hüseyin Aygün** was invited to the Tunceli Public Prosecutor's office where he was interviewed about the incident and asked to produce evidence to his denunciation. The Office filed an investigation with the registry No. 2005/163 and at the time of the reply, the investigation was still underway.

552. By a letter dated 22 March 2005, the Government replied to the communication of 4 March 2005 concerning Ms. **Sandra Bakutz**. The Government stated that The Office of the Reserve Judge of the Ankara State Security Court No.2 issued an arrest warrant in absentia against Ms. Bakutz on 31 August 2005 on grounds of being a member of the DHKP/C terrorist organization. In accordance with the arrest warrant and article 104 of the Code of Criminal Procedure she was detained upon entering Turkey on 10 February 2005 at the Istanbul Ataturk Airport. She was referred to the Istanbul Heavy Penal Court No. 9 on 11 February 2005. During the hearing, the arrest warrant in absentia was read to Ms. Kabutz and she acknowledged the warrant. Neither she nor her attorney at law made any further comment. The Court ruled for her arrest and she was sent to Istanbul Pasakapisi Prison. On 16 February she was transferred to the M-type Close prison in Gebze. On 18 February 2005 she filed an appeal at the Ankara Heavy Penal Court No. 11 for the arrest warrant to be revoked. The Court decided to maintain her arrest warrant. On 25 February 2005 the Ankara Public prosecutor's Office presented an indictment addressed to the Ankara Heavy penal Court No.11 asking that Ms. Kabutz be convicted for being a member of the said armed terrorist organization and participation in a protest action against the former Turkish Foreign Minister. She was amongst the persons who carried the banners and posters of the terrorist organization and threatened the Foreign Minister to death. The Prosecutor requested that she be sentenced in accordance with article 168.2, 31, and 33 of the Turkish penal Code. The request by the Ambassador of Austria and the Consul General of Austria to visit Ms. Kabutz in prison was refused as it was deemed inappropriate. In the meantime she was transferred to the m-Type prison in Ankara on 1 March 2005. On 4 March 2005 the Austrian Ambassador in Turkey was allowed to visit Ms. Kabutz. The hearing of Ms. Kabutz was scheduled, at the time this reply was sent, for 30 March 2005 at the Ankara Heavy Penal Court No. 11. The Austrian Embassy was informed.

553. In a letter dated 28 June 2005 the Government of Turkey responded to the communication of 22 April 2005 concerning the Human Rights Associations. The Government stated that upon the communication of the Special Representative, the Ministry of the Interior sent instructions to the Offices of Istanbul, Ankara and Diyarbakir Governors on 29 April 2005 to take necessary investigations into the concerns raised in the communication. On the same date the Ministry of the Interior instructed all other 78 Provincial Governors to take security measures

to protect all provincial and district branches of the Human Rights Associations and their members.

554. By a letter dated 22 December 2005 the Government of Turkey responded to the communication of 31 August 2005. The Government stated that the relevant authorities had conducted an investigation into the incident of 24 June 2005, when a taxi hit a land mine and exploded in Batman village. It was suspected that the land mine had been planted by a terrorist organization and the taxi driver was severely injured in the explosion. The Chief Public Prosecutor's office in Tunceli conducted an investigation into the incident, during which police officers found notices at the scene of the explosion, some of which read "Let's condemn terrorism if you're brave enough. Human rights defenders have you seen this car? Why are you silent Tunceli Bar Association?" Following this discovery the Provincial Security Directorate immediately informed the Office of the Chief Prosecutor of this situation to conduct an inquiry. At the same time, the Tunceli Bar Association filed a complaint regarding the display of these notices as well as alleging that the police officers at the scene of the incident neglected their duty by condoning this act. Both the application of the Provincial Security Directorate and the complaint of the Tunceli Bar Association were merged into the same file by the Chief Public Prosecutor, pursuant to Article 9 of the Criminal Procedures Act No. 5271. The Chief Public Prosecutor's office's submitted a request to the Governor's Office for the identification of the police officers who were on duty at the time of the incident, as well as to conduct a preliminary inquiry along with the request for permission to initiate an investigation in accordance with the Law on Prosecution of Public Officials Act No. 4483. The Governor's Office initiated a preliminary inquiry and concluded that the police officers did not neglect their duty. Therefore the Governor informed the Office of the Chief Public Prosecutor not to proceed with the investigation and on 11 August 2005 the Chief Public Prosecutor decided that there was no legal cause to proceed with the investigation. With regard to the complaint submitted by the Tunceli Bar Association against the Gendarmerie Command in Tunceli, the Office of the Chief Public Prosecutor had submitted a request to the Governor's office to conduct a preliminary inquiry, which was still underway at the time of the reply.

555. By a letter dated 10 November 2005 the Government responded to the communication of 30 September 2005. The Government stated that the Office of the Ankara Chief Public Prosecutor found that there were no legal grounds for launching a lawsuit against **KAOS GL** and dismissed the application of the Ankara Governor on 15 September 2005. Furthermore, the Government stated that it believed that the Chief Public Prosecutor set a good precedent with this decision.

### **Observations**

556. The Special Representative thanks the Government of Turkey for its replies to her communications of 17 February 2005, 4 March 2005, 22 April 2005, 31 August 2005 and 30 September 2005.

557. She welcomes the measures that have been taken to protect the Human Rights Associations and their members but would be interested in receiving more details concerning the nature of these measures.

558. Regarding the Tunceli Bar Association, she takes note of the Government's position and looks forward to receiving further information regarding the investigations.

## **Uganda**

### **Communications sent**

559. On 5 of August 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning **Victor Juliet Mukasa**, Chairperson of Sexual Minorities Uganda (SMUG), a non-profit, non-Governmental organization that works towards achieving full legal and social equality for lesbian, gay, bisexual, transgender people in Uganda. According to the information received, on 20 July 2005, Ms. Mukasa's home, in a suburb of the capital city Kampala, was allegedly raided during the night by local Government officials. They reportedly entered into her house in her absence, and seized documents and other material relating to the activities of SMUG. Concern was expressed that following the steps taken by Ugandan law-makers in July 2005, who voted for a constitutional amendment to criminalize marriage between persons of the same sex, this incident constituted an attempt to intimidate Ms. Mukasa and prevent her from carrying out her human rights work.

### **Observations**

560. The Special Representative regrets that at the time this report was being finalized, no response had been received from the Government of Uganda.

## **United States of America**

### **Communications sent**

561. On 29 September 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Rapporteur on violence against women, its causes and consequences sent a communication concerning violence against women and girls, women human rights defenders and political leaders. According to information received, female political leaders and women campaigning to protect women's rights had been threatened and killed by members of armed group identifying themselves, on many occasions, as Islamic extremists targeting women for their activities in defence for women's rights. In January and February 2004, Mrs. Yanar Mohammed, the Chairperson for the Organisation of Women's Freedom in Iraq, OWFI received death threats by e-mail from an Islamist group known as the army of Sahaba. US officials informed Mrs. Mohammed that they were not in a position to offer her protection. Similarly, Amira Salih, the manager for the US-funded women's centre in Karbala, resigned as a result of repeated death threats against her. On 9 March 2004, US lawyer and civilian employee of the Coalition Provisional Authority (CPA) Fern Holland as well as Salwa Oumashi, her Iraqi assistant, were both killed in an armed attack. Mrs. Holland was very active in supporting US-funded women's rights projects in the governorates of Babil, Karbala and Najaf. She was also involved in setting up women's centres in Hilla and Karbala.

Furthermore, on 20 November 2004, Amal al-Ma'amalachi, a women's rights activist, co-founder of the Advisory Committee for Women's Affairs in Iraq and the Independent Iraqi Women's Assembly as well as adviser at the Ministry of Municipalities and Public Affairs, was killed together with her secretary, bodyguard and driver in Baghdad. Moreover, Aquila al-Hashimi, who is one of the three female members in the Iraqi Governing Council (IGC) was killed in September 2003. Her attackers were reportedly armed men opposed to the US-led occupation. Raja Khuzai, another IGC member received death threats for opposing proposed amendments to the Personal Status Law. Moreover, on 29 March 2004, former Minister of Public Works, Nisreen Mustafa al-Burawari, who was also the only woman in the cabinet, was attacked. She survived the attack, but two of her body guards were killed. Finally, Lami'a Abed Khadawi, a member of former Prime Minister Iyad Allawi's political party, was killed upon returning home following a meeting of the National Assembly. Moreover, women and girls, including non-Muslims, are increasingly under pressure, often violent, to wear a veil or headscarf and to wear the traditional abaya. This has led to a reduction in the number of girls and women attending schools and universities. The Ministry of Higher Education and Scientific Research has been informed of 3000 cases of women and girls who have requested a postponement of their studies as a result of the security situation linked to this matter. An increase in acid attacks at the hands of Islamist groups and militia against women for not wearing the veil and not wearing the traditional abaya have also been reported. Justification for these attacks is based on the reasoning that when a woman or a girl does not wear a veil or the abaya, she is going against Muslim traditions and should be punished. This, together with the general increase in insecurity in the country, has also drastically led to the restriction of women's freedom of movement and their ability or willingness to participate in public life, particularly in education, employment and political decision-making. The prohibition of deciding about one's choice of clothes also leads to a violation of the right to freedom of expression. Women and girls have also been subjected to sexual threats by members of the US forces, including at check points and during house searches, for example. Moreover, women and girls have been beaten, subjected to humiliating treatment, held for long periods in solitary confinements, and sexually abused while in detention by US forces. Rape and killing by criminal gangs, extremist religious groups and armed opposition groups has also increased. Domestic violence continues to be very common and according to article 41.1 of the Penal Code of 1969, which is still in force, a husband who 'disciplines' his wife is exempt from criminal liability. Moreover, most victims of domestic violence have no access to medical treatment. Such violence, including forced marriages and sexual abuse, has also led to the increase in suicides and self-immolations, as well as killings. In northern Iraq, the practices of Jin be Jin (exchanging one woman for another) has contributed to the high incidence of forced marriage. Honour killings and mutilations are also condoned in Iraqi legislation. The law allows the mitigation of punishment for perpetrators found guilty of these crimes. The continued use of female genital mutilation continues to be reported in the northern region of Iraq. Gender discrimination in Iraq's laws further exacerbates and entrenches the persistence of violence against women.

### **Observations**

562. The Special Representative regrets that at the time this report was being finalized, no response had been received from the Government of the United States of America.

## Uzbekistan

### Communications sent

563. On 7 February 2005, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal concerning **Rukhiddin Komilov**, a lawyer based in Tashkent who had represented a number of defendants charged with terrorism, anti-constitutional activity, possession of illegal religious materials and membership in illegal religious organizations. In addition, Mr. Komilov is head legal counsel for Ezgulik, a registered, national human rights organization, connected with Birlik, an unregistered, opposition political party. Mr. Komilov had acted on a couple of specific cases which have received the attention of the international observers, the press and the NGO community. In July 2004 Mr. Komilov brought a case before the Supreme Court on behalf of Birlik, after the party was denied the registration necessary for taking part in elections. He asked the court to reverse the Ministry of Justice's decision to reject Birlik's registration application. The Supreme Court decided that it was not within its jurisdiction to rule on the Ministry of Justice's decision. From 7 September to 7 October 2004, Mr. Komilov represented Mastura Latipova, a woman tried on terrorism charges with 14 other defendants. At the trial, Komilov presented the court with written complaints – originally submitted before the trial to the prosecutor's office – saying that his client was tortured in custody. He said that his client was struck, suffocated with a gas mask, threatened and kept incommunicado during her first week in detention. His client was sentenced to nine years in prison, which was reduced to seven years on appeal. Six days after the court sentenced Ms. Latipova, police arrested her husband, Murod Latipov and her son in-law, Umid Astanov. Mr. Komilov immediately completed the necessary documents to represent them and went to the detention centre but was denied access to them. He was denied access on several occasions and was told that he lacked essential documents. On each occasion he wrote an official complaint to the prosecutor's office, in accordance with procedure, explaining that he was prohibited from seeing his clients. On 22 November Mr. Komilov received a letter from the head of the Prosecutor General's Crime Investigation that Mr. Komilov received an inducement of \$100 by an NGO to have Ms. Latipova make a false claim about being tortured during the investigation stage and that Mr. Komilov should face possible disbarment. An investigation was launched and a professional review board was to reach a decision on 20 December 2004 as to whether Mr. Komilov's law licence should be revoked. The decision of the board is still pending. There was concern that this investigation was an attempt to remove Mr. Komilov from this case and to prevent him from continuing his defence work in general.

564. On 9 February 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning **Ezgulik**, a non-Governmental human rights organisation that inter alia deals with the rights of prisoners, and Vasila Inoiatova, the chair of the organisation. According to the information received, on 2 February 2005, the Ministry of Justice summoned Vasila Inoiatova. The Deputy Minister of Justice, who oversees non-Governmental organisations, allegedly reprimanded Inoiatova for Ezgulik's activities and issued an official warning letter against the organisation. The letter alleges that Ezgulik violated the terms of its charter and the law on the freedom of information by reporting on the 2 January 2005 death in prison of Samandar Umarov. Ezgulik has allegedly reported that the authorities who brought the body home pressured Umarov's relatives not to open the casket and bury him quickly, without washing the body in

accordance with Muslim custom. The organisation also reported that Umarov's body showed marks that could result from ill-treatment. The information received indicated that the official warning letter informed that in the event of a second offence, the Ministry of Justice would "take all measures" against Ezgulik. Allegedly, the letter does not specify which measures are contemplated. It was reported that the letter further states that members of Ezgulik have exceeded their authority by collecting signatures for the Birlik (Unity) party and that, in one case, an Ezgulik member collected false signatures. Concern was expressed that the summons of Vasila Inoiatova and the official warning letter to Ezgulik may represent attempts to prevent the human rights defence activities of the organisation, in particular in connection with its reporting on the alleged death in prison of Samandar Umarov.

565. On 9 May 2005, the Special Representative sent a letter of allegation concerning Ms. **Tamara Chikunova** and **Dilobar Khudoberganova**, respectively director and a member of Mothers against the Death Penalty and Torture; an NGO working on cases involving the death penalty and the alleged torture of suspects whilst in pre-trial detention and their relatives and her father. Ms. Khudoberganova and her father was already subject to an urgent appeal sent by the Special Representative, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture on 25 June 2003 and an urgent appeal sent by the Special Representative, in conjunction with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 23 July 2003, to which your Excellency's Government replied by letter dated 11 September 2003. According to the information received, on 29 September 2004, an investigator from Mirobad district procuracy in Tashkent came to the house of Ms. Chikunova's mother, who is 78 years old and confined to bed. Reportedly, he told her that he had an arrest warrant for Ms. Chikunova on the grounds that she had allegedly carried out pickets which led to unrest in Ferghana valley and in Tashkent. The information received further indicated that, on 21 December 2004, Ms. Khudoberganova's father received a phone call from a man who said he was a National Security Service official and stated that Ms. Khudoberganova "talks too much" and should "think about the consequences her activities could have for his family". It was reported that the caller criticised Ms. Khudoberganova for raising human rights issues during her visits abroad 23 September to 5 December 2004. Concern was expressed that the harassment of relatives of Ms. Chikunova and Ms. Dilobar Khudoberganova may be in retaliation of their human rights activities for Mothers against the Death Penalty and Torture. In particular, concern was expressed that these incidents may be linked to fact that in the period of 23 September to 5 December 2004, Ms. Chikunova and Ms. Khudoberganova travelled to Canada, France, Germany, Italy, the Netherlands, Poland, Sweden and the United Kingdom, campaigning against the use of the death penalty and torture in Uzbekistan.

566. On 26 May 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal regarding several cases of targeting of human rights defenders by authorities in the past week, in particular, concerning the situation of **Saidjahon Zainabitdinov**, Chairman of the Andijan human rights group Apellatsia ("Appeal"), an organization working on religious and political persecution; **Ulugbek Bakirov** and **Fazliddin Gafurov**, two members of the human rights organization Ezgulik ("Goodness"), an organization also working on religious and political persecution; **Bakhtior Hamroev** and **Mamuljon Azimov**, two members of the Human Rights Society of

Uzbekistan (HRSU); and **Utkam Pardiev**, a member of the Independent Human Rights Society of Uzbekistan (IHRSOU). According to the information received, it is alleged that, on 21 May 2005, Saidjahon Zainabidinov was arrested by Uzbek authorities in Andijan. He was reportedly held incommunicado for two days before being permitted to telephone a relative on 23 May. Reports indicate that he is currently detained at the Andizhan Regional Department of the Uzbek Ministry of Internal Affairs. The charges against him remain unknown. Fears have been expressed that he may be at risk of torture. Concerns were expressed that Zainabidinov's arrest may be linked to his activities in the defense of human rights, in particular his descriptions of the recent events in Andijan and of the general human rights situation in Uzbekistan which have appeared in the press. He may also have been targeted as a result of his work on cases of individuals accused of "religious extremism" for their apparent affiliation with Akramia. On 20 May, Ulugbek Bakirov and Fazliddin Gafurov, two members of the human rights organization Ezgulik ("Goodness"), who were on their way to interview witnesses of the Andijan demonstrations and relatives of those killed, were stopped by three men in plain clothes who had followed them in a car without a license plate. It was reported that the men got out of their car and asked Bakirov and Gafurov where they were going. One of the men grabbed Bakirov and began hitting him. Gafurov intervened and was also beaten by the men, reportedly suffering a concussion and an injury to his left shoulder. On 23 May, at approximately 11:30 p.m. a local police officer reportedly appeared at the home of Bakhtior Hamroev, a member of the Human Rights Society of Uzbekistan (HRSU), with a summons for him to appear at the prosecutor's office at 7:00 a.m. on the next day. The summons, however, did not indicate any reason for the meeting. On the same day, Utkam Pardiev, a member of the Independent Human Rights Society of Uzbekistan (IHRSOU) and Mamuljon Azimov, a member of HRSU, both reportedly also received calls to report to local prosecutors' offices.

567. On 7 July 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal in connection with the following persons. According to the information received: On 22 May 2005, in Jizzakh, 70 people, some of whom are allegedly officials from various Government agencies, forcibly entered the home of **Bakhtior Kamroev**, chairman of the Jizzakh province branch of the Human Rights Society of Uzbekistan, an organization that supports human rights, freedom and democracy in Uzbekistan. It was reported that they verbally harassed Bakhtior Kamroev for passing information to Western organizations and human rights groups and accused him of being a traitor and a terrorist. He was ordered to leave Jizzakh and death threats were made against him and his family. On 23 May 2005, it is reported that he was taken to the city prosecutor's office for questioning, during which he was warned not to organize protests or carry out any human rights work. It is reported that he is still under surveillance. On 26 May 2005, a member of the police in Jizzakh came to the home of Tatiana Dovlatova, an activist with the Society for Human Rights and Freedoms of the Citizens of Uzbekistan, and demanded that she accompany him to the prosecutor's office. She refused to go unless provided with an official summons. It is reported that she was subsequently placed under armed house arrest and threatened with being committed to a psychiatric hospital. On 28 May 2005, in Andijan, the police arrested Muhammadqodir Otakhonov, of the Uzbek branch of the International Human Rights Society (IDEM), Dilmurod Muhiddinov and Musozhon Bobozhonov, respectively chairman and member of the Markhamat district branch of Ezgulik, an organization working on religious and political persecution. It is reported that they searched their house and seized human rights materials and copies of a statement by the unregistered opposition party Birlik about the

events in Andijan. The three men are reportedly still in detention and are being questioned without the presence of a lawyer and have been charged with “infringement of the constitutional order,” “forming a criminal group,” and “preparation and distribution of materials containing threats to public order and security.” On 28 May 2005, Kholiqnazar Ganiyev, head of the Samarkand province offices of both Ezgulik and Birlik, was arrested by local police in Samarkand. He was charged with “hooliganism” and sentenced to 15 days of administrative arrest. In a separate incident, on 27 May 2005, a group of women, suspected to have close links with the Government, attacked Ganiyev’s house and then brought charges against him when he asked them to leave. On 29 May 2005, 17 members of the Fergana Valley branch of Ezgulik, who were participating in a seminar in Tashkent and who had come from several regions of Uzbekistan, were detained and forcibly returned to their place of origin by 30 armed policemen who referred to them as, “Andijani terrorists.” At approximately 2 a.m. on the night of the 30 May, Vasila Inoyatova, head of Ezgulik and a senior member of Birlik, and who had organized the seminar, was detained by police, together with her husband, at Sobir-Rakhimov district police department. They were released the next day. On 30 May, at approximately 6 a.m. Sotvoldi Abdullaev, member of the Uzbek branch of the International Human Rights Society (IDEM), was assaulted outside his house in Tashkent by two unknown, plainclothes men. As a result of the attack he had to be hospitalized. It was reported that Sotvoldi Abdullaev’s house had been under surveillance for several days before the attack. On 2 June 2005, police conducted a search of the home of Mizaffarmizo Iskhakov, head of the Andijan branch of the human rights group Ezgulik, during which they seized a number of human rights documents and a computer. On 3 June, Mizaffarmizo Iskhakov was arrested by police and detained at the Markhamat district police department. He was released on 6 June, but police have confiscated his passport and have ordered him not to leave the city. On 2 June 2005, Nurmukhammad Azizov and Akbar Oripov of the Andijan branch of Birlik were arrested by district police, and their homes were searched by officers of the District Department of Internal Affairs of Markhamat who confiscated human rights publications and computers containing a copy of the Birlik statement about the events in Andijan. Both men have been charged with ‘public insulting or slandering against the President’, ‘intention to overthrow the constitutional order’, ‘preparation and distribution of materials containing threats to public order and security’ and ‘forming, heading or participating in religious extremist, fundamentalist, separatist or other banned organisations’. On 5 June 2005, Norboy Kholjigitov, a member of the Human Rights Society of Uzbekistan HRSU, was arrested by Uzbek security agents in the village of Bobur near Samarkand. He was allegedly detained on charges of corruption. His whereabouts are unknown. On 7 June 2005, Hamdam Sulaimonov, deputy chairman of the Fergana Valley branch of Birlik was arrested by local police at his home in Andijan. Police carried out a raid of his house, during which his computer was seized. He was later interrogated about the distribution of a statement by the Birlik party chairman, Abdurakhim Polat, during a U.S. Helsinki Commission briefing on Uzbekistan in Washington on May 19. Hamdam Sulaimonov has been released on bail, but it is reported that he has been again summoned for interrogation. On 15 June 2005, at approximately 10 p.m., near Andijan, Tolib Yakubov, chair of the Human Rights Society of Uzbekistan, Eliza Murzaeva, IHF Secretariat, Eldar Zeynalov, Chairman of the Human Rights Centre of Azerbaijan, and Dmitri Markushevski, Belarusian Helsinki Committee, all members of the delegation from the International Helsinki Federation, were followed by two unmarked cars. Shortly afterwards, their car was stopped by two police cars who blocked the road and ordered them to drive to a local police station. They were informed that they were suspects in a car accident which had reportedly occurred earlier in the day at a nearby mountain pass between Andijan and Tashkent.

The police confiscated the driver's license and car registration documents. The delegation, accompanied by two police cars, was ordered to drive to the place where the accident had allegedly happened. At approximately 2 a.m. the delegation reached a checkpoint on the road leading from Andijan to Tashkent. The police returned the driver's documents, but copies of the delegation's passports were made. They were informed that police would meet them at the next checkpoint. At the second checkpoint, copies of their passports were made again. Concern was expressed that the intimidation and harassment of human rights defenders in Uzbekistan is part of a pattern of targeted violations by State authorities against them and intended to discourage them from carrying out their human rights activities, especially in the wake of the recent events in Andijan.

568. On 18 July 2005, the Special Representative, together with the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning 10 women human rights defenders who have been threatened as a result of their nomination in connection with the initiative "1000 Women for the Nobel Peace Prize." According to the information received, **Adiba Akhmedjanova** (Tashkent), **Dilorom Mukhsinova** (Fergana), **Sarigul Bakhdirova** (Nukus), **Sakhbakhon Ergasheva** (Kokand), **Tatyana Chabrova** (Tashkent), **Dildora Alimbekova** (Tashkent), **Rano Yusupova** (Tashkent), **Tamara Chikunova** (Tashkent), **Mutabar Tadjibaeva** (Fergana), and **Salima Kadirova** (Samarkand) have all been nominated as laureates for the "1000 Women for the Nobel Peace Prize" initiative. This initiative aims to recognize the work of women who promote peace around the world through a variety of activities. The day before a ceremony was scheduled to take place to announce the names of the nominees, the local coordinator of the initiative, Ms. Pikulina Marina, was reportedly threatened by the Government, accused of not supporting the Government nominees for the initiative and placing undeserving candidates on the list instead. These threats resulted in the cancellation of the ceremony as scheduled and Ms. Pikulina Marina was forced to hold a smaller event further from the city center, inviting only 10 of the original nominees and with no mass media present. The ten women have also reportedly received threats from the Government to withdraw their names as nominees. They fear for their safety and that of their children. While the names of all of the other nominees worldwide have been made public by the "1000 Women for the Nobel Peace Prize" initiative, the threats have been deemed sufficiently serious that the initiative has not released the names of these ten women, fearing for their safety.

569. On 25 July 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation concerning the reported harassment of human rights defenders in Uzbekistan many of whom have reportedly been arrested, put under house arrests and surveillance, are being prosecuted in connection to their human rights activities, and are being threatened. In particular, the Special Representative received allegations concerning the following: On 15 May 2005, **Ulugbek Bakirov** and **Fazliddin Gafurov**, members of Ezgulik, were beaten in the Dzhalakuduk district by the police as they were trying to investigate the events of the 13 May and their cameras confiscated, on 22 May 2005, in Djizak, 70 people, some of whom are allegedly officials from various Government agencies, forcibly entered the home of **Bakhtior Kamroev**, chairman of the Jizzakh province branch of the Human Rights Society of Uzbekistan (HRSU), an organization that supports human rights, freedom and democracy in Uzbekistan. It was reported that they verbally harassed Bakhtior Kamroev for passing information to Western organizations and human rights groups and accused him of being a traitor and a terrorist. He was ordered to

leave province and death threats were made against him and his family. On 23 May 2005, it is reported that he was taken to the city prosecutor's office for questioning, during which he was warned not to organize protests or carry out any human rights work. It was reported that he was still under surveillance. On 22 May 2005, **Sobitkhon Ustabaev**, a member of the human rights organization "zashchita" who had been denied access to the city of Andijan stood in the Namangan city center with a poster fixed to his chest denouncing the events in Andijan. He was reportedly arrested by the police and detained for 15 days in the Namangan police department. Additionally, on 15 June, a Helsinki Federation Delegation invited Ustabaev to a meeting which he failed to attend due to the fact that while travelling to the meeting point he was being followed. It is reported that he later received a phone call on his cell phone from the chief of the city department of international affairs who advised him not to attend meetings with the delegation. On 26 May 2005, a member of the police in Jizzakh came to the home of **Tatiana Dovlatova**, an activist with the Society for Human Rights and Freedoms of the Citizens of Uzbekistan, and demanded that she accompany him to the prosecutor's office. She refused to go unless provided with an official summons. It was reported that she was subsequently placed under armed house arrest and threatened with being committed to a psychiatric hospital. On 26 May 2005, top officials of the region together with leaders of regional community organizations (Makhallinks) took part in public protest demanding the eviction of human rights defenders from the region. The protesters first went to the house of Momir Azimov, chairman of the Djizak branch of HRSU to find him but he was absent. On the same day at 11 a.m., protesters burst into the house of Bakhtiar Khamroev calling him a "traitor" and a "terrorist". It was reported that the protesters rode in two buses which were escorted by the Council of National Security. On 27 May 2005, **Anatoly Volkov** and **Tatiana Dovletova** both members of the SPRLCU were arrested by the police as they were visiting Shoira Sobiqbekova, another SPRLCU member, at the hospital. They were taken to a police station and compelled to sign statements confessing to being terrorists. From 27 to 30 May 2005, **Mamaradzhah Nazarov**, an Ezgulik member, in the Zarbor District of the Djizak region was put under house arrest. On 30 May, a mob harassed him and his family and ordered them to leave town. On 28 May 2005, in Andijan, the police arrested **Muhammadqodir Otakhonov**, of the Uzbek branch of the International Human Rights Society, **Dilmurod Muhiddinov** and **Musozhon Bobozhonov**, respectively chairman and member of the Markhamat district branch of Ezgulik, an organization working on religious and political persecution. It was reported that they searched their house and seized human rights materials and copies of a statement by the unregistered opposition party Birlik about the events in Andijan. The three men were detained in the pre-trial detention facility of Asak and questioned without the presence of a lawyer and have been charged with "infringement of the constitutional order," "forming a criminal group," and "preparation and distribution of materials containing threats to public order and security." On 28 May 2005, **Kholiqnazar Ganiyev**, head of the Samarkand province offices of both Ezgulik and Birlik, was arrested by local police in Samarkand. He was charged with "hooliganism" and sentenced to 15 days of administrative arrest. In a separate incident, on 27 May 2005, a group of women, suspected to have close links with the Government, attacked Ganiyev's house and then brought charges against him when he asked them to leave. On 29 May 2005, 17 members of the Fergana Valley branch of Ezgulik, who were participating in a seminar in Tashkent and who had come from several regions of Uzbekistan, were detained and forcibly returned to their place of origin by 30 armed policemen who referred to them as, "Andijani terrorists." At approximately 2 a.m. on the night of the 30 May, **Vasila Inoyatova**, head of Ezgulik and a senior member of Birlik, and who had organized the seminar, was detained by police, together with her husband, at Sobir-Rakhimov district police department.

They were released the next day. On 29 May 2005, **Zulfikor Mirzakulov**, chairman for the Kahskardaya branch of Ezgulik, was beaten by the police at his house. It is reported that he was planning to attend a demonstration in Tashkent on the next day which the police reportedly attempted to dissuade him to do in vain. The police reportedly drove him 100 kilometers from Karshi and drove away. On 30 May 2005, at approximately 6 a.m. **Sotvoldi Abdullaev**, member of the Uzbek branch of the International Human Rights Society who had been under house arrest since 17 May, was assaulted outside his house in Tashkent by two unknown, plainclothes men. As a result of the attack he had to be hospitalized. It was reported that Sotvoldi Abdullaev's house had been under surveillance for several days before the attack. On the same day in Bukhara, **Ilkom Ashurov**, and **Vakhid Karimov**, members of the Humanitarian Legal Center, were detained by the police for three hours and urged not to leave town. On the same day **Nabibulla Norbutaev**, chief of the Tashkent branch of Ezgulik, was arrested and taken to the Shaikhantaur police station. On 2 June 2005, police conducted a search of the home of **Mizaffarmizo Iskhakov**, head of the Andijan branch of the human rights group Ezgulik, during which they seized a number of human rights documents and a computer. On 3 June, Mizaffarmizo Iskhakov was arrested by police and detained at the Markhamat district police department. He was released on 6 June, but police have confiscated his passport and have ordered him not to leave the city. On 2 June 2005, **Nurmohammad Azizov**, chairman of the Andijan Branch of the HRSU, had his home searched. During the search, the police found a Birluk party statement and arrested him on this basis. It was reported that the statement was planted amongst Azizov's papers during a power failure which occurred while policemen were searching the house. He was taken into custody and charged under article 150 and 244 of the Uzbek penal code. Since then his house was reportedly under constant surveillance. On the same day, a public smear campaign was organized against human rights defenders in Djizak. It was reported that the provincial Khomiyat held a meeting attended by a number of people from the population during which human rights defenders were called "traitors" and "slaves to the Americans". During the meeting, it is reported that that Khakim of the province and the chief editor of "voice of Djizak", a local newspaper, exhorted people not to support human rights defenders and stated that Khamroev, Azimov as well as other defenders were spreading false rumors about events in Andijan through Radio Liberty and the internet. The meeting then reportedly adopted a "resolution" condemning human rights defenders who "have sold themselves to the West for Dollars." In addition on 12 June 2005, the wives of Khamroev and Azimov received anonymous letter of threats denouncing the activities of their husbands. On 4 June 2005, **Norboy Kholjigitov**, Chairman of the Ishtikhan branch of HRSU, together with Abdusattar Irzaev and Khabibula Akbulatov local members of HRSU, was arrested by Uzbek security agents in the village of Bobur near Samarkand. He was allegedly detained on fabricated charges of corruption. It was reported that on 10 June his family hired **Assleddin Suvankulov** as his defence counsel. On the same day, **Assleddin Suvankulov** was visited by the Deputy Head of the Department of Interior of the Pajariksk region who advised him to drop the case. On 15 June 2005, at approximately 10 p.m., near Andijan, **Tolib Yakubov**, chair of the Human Rights Society of Uzbekistan, **Eliza Murzaeva**, IHF Secretariat, **Eldar Zeynalov**, Chairman of the Human Rights Centre of Azerbaijan, and **Dmitri Markushevski**, Belarusian Helsinki Committee, all members of the delegation from the International Helsinki Federation, were followed by two unmarked cars. The delegation was on a fact-finding mission spending a week in Tashkent, Andijan, Djisak and Samrkand. They visited human rights defenders in an effort to document human rights developments in Uzbekistan after the killings of civilian demonstrators in Andijan on 13th May 2005. Shortly after being followed, their car was stopped by two police

cars that blocked the road and ordered them to drive to a local police station. They were informed that they were suspects in a car accident which had reportedly occurred earlier in the day at a nearby mountain pass between Andijan and Tashkent. The police confiscated the driver's license and car registration documents. The delegation, accompanied by two police cars, was ordered to drive to the place where the accident had allegedly happened. At approximately 2 a.m. the delegation reached a checkpoint on the road leading from Andijan to Tashkent. The police returned the driver's documents, but copies of the delegation's passports were made. They were informed that police would meet them at the next checkpoint. At the second checkpoint, copies of their passports were made again. They reached the Uzbek capital at 7 a.m. local time. Concern was expressed that the intimidation and harassment of human rights defenders in Uzbekistan is part of a pattern of targeted violations by State authorities against them and intended to discourage them from carrying out their human rights activities, especially in the wake of the recent events in Andijan.

570. On 12 August 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture sent an urgent appeal concerning **Igor Rotar**, Forum 18's Central Asia correspondent. According to information received, on 11 August 2005, Igor Rotar was arrested by Uzbek authorities upon his arrival at Tashkent airport, from Bishkek in Kyrgyzstan. His arrest was carried out by the Immigration Service and Border Guards upon the instructions of the National Security Service secret police. He was being kept in incommunicado detention and has been asked to buy his own deportation ticket. Concern was expressed that Igor Rotar might be detained in connection with his work as a journalist, in particular his articles concerning freedom of religion during and in the aftermath of the recent events in Andizhan. Further concern was expressed that he might be at risk of torture or other forms of ill-treatment.

571. On 6<sup>th</sup> September 2005, the Special Representative, together 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 promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal concerning Mrs. **Elena Urlaeva**, member of the opposition party, "Ozod Dehkonlar", and human rights defender, formerly a member of the Human Rights Society of Uzbekistan and associate member of the International Helsinki Federation for Human Rights (IHF), who was arrested in Tashkent on 28th August 2005, for disseminating leaflets containing cartoons of the state emblem of Uzbekistan. According to the information received, Ms. Urlaeva was detained in a psychiatric clinic. Her lawyer had not been able to see her and it is reported that a doctor of the department where Mrs. Urlaeva has been placed had stated that she is on compulsory treatment according to a court decision. It was also reported that Mrs. Urlaeva underwent continuous interrogation and has not been given any food or water. She had not had any access to her lawyer since her arrest and was reportedly being forced to sign a document in which she admits that she tried to overthrow the political system of Uzbekistan. Concern was expressed that Mrs. Elena Urlaeva is being targeted for her human rights work. Mrs. Elena Urlaeva has allegedly been targeted on previous occasions for her human rights activities. She was reportedly placed under house arrest on 17 May 2005 in order to prevent her participation in anti-Government demonstrations following the events in Andijan on the 13th May 2005. On 13 July 2005, police officers allegedly broke into Mrs. Elena Urlaeva's apartment and threatened

her with a gun. It was reported that in April 2001 she was placed in a psychiatric hospital by the police in relation to her participation in a demonstration she had organized against forced evictions by the municipal authorities. Furthermore, the authorities ordered her to be placed in psychiatric detention in June 2002. There had been previous allegations of mistreatment while in custody and fear was expressed that there is a high risk that Mrs. Elena Urlaeva may be mistreated again while in psychiatric detention.

572. On 20 September 2005, the Special Representative, together with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal concerning **Internews**, an international media development organisation working in fifty countries towards improving access to information by fostering independent media and promoting open communications policies worldwide, and IREX, the International Research and Exchange Board, a grassroots organisation working towards the improvement of education, facilitating student exchanging, expanding internet access and supporting community development initiatives; IREX is also funded by the United States Agency for International Development (USAID). According to information received, on 9 September 2005, a court in Tashkent ordered Internews to close down its offices in Uzbekistan and liquidate its network on the basis of convictions of illegally publishing information, producing unlicensed TV programmes and using the Internews logo without registering it first with the Ministry of Justice; such permission is not reportedly required by national law. It is reported that Internews was given one day's notice about the court hearing against them and that the court proceedings were carried out in an expedited manner. Moreover, the Judge refused Internews their request to call witnesses, denied all their petitions and appeared to be biased. Internews plans to appeal the verdict. Moreover, on 4 August 2005 Mrs. **Khalida Anarbayeva**, current senior advisor and former managing director of the representative officer of Internews Network, and Mrs. **Olga Narmuradova**, an accountant for Internews network were found guilty of violating article 190(2)b of the Uzbek Criminal Code, that is of publishing information and producing videos without a licence. They were both immediately granted amnesty by the Presiding Judge who denied efforts by the prosecutor in the case to close down the Internews office on the grounds that civil and not criminal courts had jurisdiction over this case. The trial was closed to outside observers. In August 2004, Internews bank accounts were frozen by the authorities and forced to suspend all its programs. On 14 September 2004, the civil court of Tashkent ordered the US based IREX to suspend its activities in Uzbekistan for six months. IREX was being charged with numerous violations including not having complied with its Charter and for having misused its logo. IREX plans to appeal this decision. It was feared that action taken against Internews and IREX was unfounded and aimed at silencing and bringing an end to their news reporting and activities.

573. On 26 October 2005, the Special Representative sent an urgent appeal concerning Mrs. **Hurshida Togaeva**, legal expert and Chairperson of the Pahtakor regional branch of the Human Rights Society of Uzbekistan (HRSU). According to the information received, on 23 September 2005, two unknown men are reported to have been observing Mrs. Hurshida Togaeva's house. The following day, 24 September 2005, while travelling by public bus to Bulungur, near Samarkand, to visit her daughter, she noticed the same individuals aboard the bus. The two men allegedly followed Mrs. Hurshida Togaeva off the bus and questioned her as to why she was going to Samarkand. It is reported that before answering, one of the men hit her in the stomach, resulting in Mrs. Hurshida Togaeva falling to the ground and vomiting. She reportedly told the

men that she did not know who they were, to which they replied that they did know her and then threatened that if they heard that she was meeting with ambassadors again, they would “destroy” her and her family. They further questioned her over which embassies or ambassadors the Chairman of the Djizak section of the HRSU met with. When she could not answer they allegedly phoned the Chairman and ordered Mrs. Hurshida Togaeva to ask him. They reportedly did not receive the answer they were expecting and one of the men allegedly kicked her in the thigh. As they left they reportedly threatened her once again, telling her that if she leaves her house without their permission they would kill her. Mrs. Hurshida Togaeva spent the following two days recuperating in her daughter’s house and returned home on 26 September. However, on 27 September 2005 she lost consciousness and was taken to hospital where she regained consciousness on 29 September. Prior to these incidences, on 21 September 2005, an unknown person reportedly called to the home of Mrs. Hurshida Togaeva three times. She was absent due to work commitments. Over the following few days the same individual called to the house twice more, questioning her son about her whereabouts. The unknown man told her son: “Tell your mother that she has to stay at home, and if she does not obey, it will be bad”. Concern was expressed for the physical safety of Mrs. Hurshida Togaeva and her family members following these threats. Concern was further expressed that these threats constituted an attempt to prevent her from carrying out her human rights activities for the Pahtakor regional branch of the Human Rights Society of Uzbekistan.

574. On 27 October 2005, the Special Representative together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning Ms. **Mutabar Tadjibayeva**, head of the Ut Yuraklar human rights organisation, an unregistered women’s rights organisation, member of the Organisation for the Defence of Rights and Freedoms of Uzbek Journalists, the Human Rights Society of Uzbekistan (HRSU) and the Committee for Freedom of Speech and Expression. Mutabar Tadjibayeva also a Nobel Peace Prize Laureate (part of the initiative "1000 Women for the Nobel Peace Prize") was the subject of a communication sent by the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders on 18 July 2005. According to the information received, on 7 October 2005, at approximately 23:00, Mutabar Tadjibayeva was arrested at her home in the Ferghana Valley by a group of heavily armed police and Special Forces officers. The arrest took place one day before she was due to travel to Ireland to participate in an international conference on human rights defenders. Mutabar Tadjibayeva has reportedly been charged under article 165, part 2, paragraph b of the Criminal Code of the Republic of Uzbekistan, which refers to extortion and carries a potential sentence of ten to fifteen years imprisonment. Concern was expressed that Mutabar Tadjibayeva’s arrest and the subsequent charges against her are an attempt to discredit her and prevent her from carrying out her human rights activities in particular at the international level. Concern was also expressed that her arrest may be linked to Mutabar Tadjibayeva’s open criticism of the events that occurred in Andijan on 13 May 2005.

575. On 16 November 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning, **Aleksei Volosevich**, an ethnic Russian correspondent for the independent website [www.fergana.ru](http://www.fergana.ru) who has extensively reported on the Andijan events of May 2005 and who has also been critical of the Government. According to information received, on

7 November 2005, in Tashkent, an unidentified man informed Mr. Volosevich over the phone that he had some information which would be of interest to him. Upon meeting at the place agreed to with the man in question, five men attacked Mr. Volosevich and threw several buckets of indelible paint over him. Before they left they told him that 'you won't sell out your country anymore'. Upon returning home, he found that the entrance to the door of his apartment was also covered in paint and graffiti with phrases including 'sell-out journalist' and 'Jew'. The graffiti also stated that Mr. Volosevich does not understand Islam. Two weeks earlier, an article on a Government-controlled newspaper criticized Mr. Volosevich and his public criticism of the Supreme Court trial brought against the 15 persons accused of organizing the Andijan events in May 2005. Moreover, for several days, Mr. Volosevich could not access the website [www.fergana.ru](http://www.fergana.ru) from his home computer. Every time he attempted to access the website, an article concerning journalist Ruslan Sharipov, an outspoken Government critic who had been arrested, kept coming up. The head of the press service at the National Security Service (NSS) denies having had anything to do with the attack against Mr. Volosevich, and claims that Mr. Volosevich might have set up the attack himself, as anti-Semitism did not exist in Uzbekistan. The NSS, however, has a mandate to investigate the crime committed against Mr. Volosevich. Concern was expressed for the safety of Mr. Volosevich.

#### **Communications received**

576. By a letter dated 31 May 2005, the Government of Uzbekistan responded to the communication of 7 February 2005. The Government stated that the decision of the Supreme Court not to declare the decision of the Ministry for Justice not to register the Birlik Party did not violate the provisions of Uzbek legislation. The Government also stated that Mr. **Rukhiddin Komilov** was not denied access to his client Mastura Latipova, and that his claims that he was subjected to pressure by representatives of judicial and investigative bodies were not in accordance with the facts. The Government stated that Mastura Latipova's husband, Murod Latipov submitted a complaint to the authorities concerning Rukhiddin Komilov. Mr. Latipov asserted that Rukhiddin Komilov had received monetary compensation and had promised to prove the defendant's innocence in court. Moreover, the Government stated that Mr. Komilov had forced Mastura Latipova to sign a statement stating that she had been subject to pressure by authorities. As a result of this the Office of the Procurator General of Uzbekistan issued a recommendation to the Tashkent Justice Department concerning Mr. Komilov's violation of article 53 of the Code of Criminal Procedure (rights and duties of defence lawyers) Based on the outcome of the judicial investigation, the Tashkent Justice Department took a decision to reprimand him.

577. By a letter dated 21 May 2005 the Government replied to the communication of 9 February 2005. The Government stated that detainee **Samandar Umarov** was serving his sentence in facility UYa No. 29 (Navoi). During his stay in the penal institution Mr. Umarov several times received medical attention. On 2 January 2005, at around 3.30 a.m., Mr. Umarov began to complain of an acute and persistent headache, and was vomiting blood. He was taken to the medical unit of facility UYa 64/29 in the city of Navoi. Despite the medical aid provided, the convict's condition did not improve and it was consequently decided to transfer him urgently to the reanimation ward of the Navoi branch of the republican scientific centre for emergency medical care, where he arrived at 5.10 a.m. the same day. The intensive medical emergency measures that were taken did not bring about a positive result, and Mr. Umarov was pronounced

dead at 8.45 a.m. The diagnosis reads: “Acute disturbance of cerebral blood circulation. Haemorrhagic insult. Third stage hypertonic disease. Coma.” The accompanying diagnosis indicated: “Kidney disease not excluded. Pulmonary oedema. Chronic hepatitis.” According to the preliminary forensic examination, the death of Mr Umarov occurred following “an acute disturbance of cerebral blood circulation, of a hypertonic type, and a haemorrhagic insult as a result of the rupture of blood vessels in the brain. The examination which was conducted also established that there were no physical injuries on Mr. Umarov’s body”. The Government stated that the NGO “Ezgulik”, contravening its statutes, had disseminated unobjective and unsubstantiated information about the death of Mr. Umarov. The Government stated that the actions of “Ezgulik” were of a provocative nature aimed at discrediting the authorities of the republic and that this approach by “Ezgulik” gave rise to an inappropriate response from international public opinion, the diplomatic corps in Tashkent and international organizations. Accordingly, with a view to clarifying the real reasons for the death of S. Umarov, the Office of the Procurator-General of the Republic of Uzbekistan set up an ad hoc commission and invited participation in it by relevant specialists, including an independent forensic expert from the United States of America, Dr. Ronald Suarez, and an independent expert in the field of criminal law from Slovenia, Dr. Drago Kos, representatives of the diplomatic corps and international human rights organizations in Tashkent, as well as local independent human rights defenders. In the course of the independent investigation (conducted from 12 to 17 January 2005), the Government stated that extensive work was undertaken involving specialists at various levels, additional histological studies were performed, and requests were made for all medical documents covering the period of S. Umarov’s detention that might have been of interest for the inquiries. The independent investigation excluded the possibility of the application of any kind of physical pressure that could have led to Mr. Umarov’s death. It was confirmed that the reason for his death was an acute disturbance of cerebral blood circulation and a cerebral haemorrhage. No physical injuries of any kind were found. A press conference on the results of the work of the ad hoc commission for an independent examination into the circumstances of the death of S. Umarov was held on 17 January 2005 at the Dedeman hotel in Tashkent. Taking part in the press conference were all the members of the ad hoc commission, representatives of foreign and local mass media and officials of the diplomatic corps in Tashkent. One member of the working group, R. Suarez, a pathologist from the United States, who is the chief forensic expert at Morristown, New Jersey, stated that from the medical point of view: The detainee had for a long time been suffering from high blood pressure; The autopsy performed by Uzbek pathologists conformed to international standards; He supports the preliminary conclusion on the causes of death as being due to a cerebral haemorrhage; He does not support the view that the death could have been the consequence of other (unnatural) causes; A second autopsy would not give any further details about the causes of the detainee’s death. In the opinion of D. Kos, the chairman of the independent State commission for the prevention of corruption in Ljubljana (Slovenia), who spoke as an independent expert on criminalistics: The death of S. Umarov was not caused by the intervention of third parties; In the days preceding his death, no exceptional occurrences were noted that might have threatened the life of the detainee. What is more, he was informed of a decision being taken for his complete pardon; During the provision of necessary treatment, no intentional unlawful actions were taken, either at the place of his detention in medical division 64/29, or at the place of his subsequent stay at the hospital in Navoi; No instances of a lack of conscientiousness in the performance of their official duties can be noted on the part of staff of the colony or the city hospital during the treatment and provision of medical care for S. Umarov. These statements were also confirmed by the local (Uzbek) human rights defenders A. Ergashev

and A. Karimov. In the Governments' opinion, all the above-mentioned facts demonstrate that the actions of "Ezgulik" to look into what happened have entirely contravened the statutes of the organization and the provisions of the applicable legislation of the Republic of Uzbekistan. Thus, more specifically, article 7 of the Freedom of Information (Principles and Guarantees) Act of the Republic of Uzbekistan states that the "distortion or falsification of information is prohibited. The Government stated that the mass media, together with the source and author of the information, bore responsibility under the statutory procedure for the authenticity of the information being disseminated". Furthermore, "Ezgulik" representatives have issued no apology for the false information disseminated by them concerning the death of S. Umarov, and this once again, according to the Government demonstrated the provocative nature of the activities of this organization and its inability to admit its mistakes. In this connection, on 2 February 2005 the Ministry of Justice of the Republic of Uzbekistan sent a letter dealing with the need to observe the requirements of the legislation concerning the objectivity and veracity of information and reports that are disseminated. The Government stated that the communication of the Ministry of Justice contained no attempts to restrict the activities of the "Ezgulik" Human Rights Society and does not contravene the applicable legislation or the norms of international law in this sphere. The statements of the "Ezgulik" leader V. Inoyatova about pressure allegedly being exerted on her are unfounded and do not correspond to the reality. Concerning the attempts of the Birlik party's initiative group to falsify the collection of signatures from citizens, on 22 September 2003 the Ministry of Justice received an application from an initiative group for the registration of the Birlik popular movement as a party. A study of the founding documents showed a number of contraventions of the applicable legislation. In particular, sections 5.2 and 5.3 of the statutes of the party provided for collective membership, which is contrary to article 4 of the Political Parties Act. Under that article of the said Act political parties are to have a fixed individual membership. In addition, the party's programme provides for the right to acquire a second citizenship, which is contrary to articles 21 and 23 of the Constitution of the Republic of Uzbekistan. On this account, and in accordance with the Public Associations Act, the Non-State Non Commercial Organizations Act, the Political Parties Act and paragraph 2.3 of the Rules governing the consideration of applications for registration of the statutes of public associations in the territory of the Republic of Uzbekistan, the application for the registration of the Birlik popular movement as a party was dismissed on 22 October 2003. On 24 November 2003 the Ministry of Justice received a second application from the initiative group. A check of the founding documents established that the materials presented by the party failed in a number of respects to meet the requirements of the Public Associations Act and the Political Parties Act. For example, in contravention of article 6 of the Political Parties Act, a list of the initiators of the Karakalpak division of the party was not made available. According to this article, the establishment of a political party would require the collection of at least 5,000 signatures from citizens residing in at least eight territorial entities (oblasts), including the Republic of Karakalpakstan and the city of Tashkent. The lists submitted for the Fergana and Kashkadarya oblast divisions include signatures from underage citizens, and that is contrary to article 9 of the Public Associations Act, article 18 of the Non-State Non-Commercial Organizations Act and paragraph 4.1 of the party statutes. Paragraphs 5.1 and 5.2 of the statutes have again provided for collective membership, which is contrary to article 4 of the Political Parties Act. Furthermore, Vasilya Inoyatova, the general secretary of the party, is at the same time the chair of the "Ezgulik" Human Rights Society of Uzbekistan. The Government stated that this situation ran counter to paragraph 2 of the Regulations approved by Uzbekistan Cabinet of Ministers decision No. 132 of 12 March 1993, according to which a member of the governing body of one public

association cannot at the same time be a member of the governing body of another public association. Consequently, on 24 December 2003 the Birlik party's application for registration was dismissed. On 27 January 2004 the Ministry of Justice received another application from the party. In the records submitted by the Syrdarya, Khorezm, Fergana and Namangan oblasts and the city of Tashkent, 329 of the 448 signatures sampled and checked had been falsified. Thus, in conversations with citizens indicated in the lists of proponents of the establishment of the Birlik party it was established that their signatures had been collected in favour of a petition for "water supply of the makhalla" and "support to citizen Tashmatov for the release of his convicted son Sunatilla", and they did not know about the creation of the party. Accordingly, on 26 February 2004 the application for registration was dismissed and a written reply was given to the applicants. By a decision of 7 May 2004 the Supreme Court of the Republic of Uzbekistan refused to accept an application for the party's registration. The judicial panel of the Supreme Court upheld this decision on 24 June 2004. On 23 December 2004 the Birlik party again sent the Ministry of Justice of the Republic of Uzbekistan an application for its registration. Out of a sample of 4,479 signatures of citizens checked only 531 citizens had expressed the wish to join the Birlik party. That figure represents 11.8 per cent of citizens' signatures. The signatures of the remaining 3,948 citizens, or 88.2 per cent of the total, had been collected for various petitions relating to "water supply", "installation of gas in the makhalla", etc. Consequently, on 24 January 2005 the application for the registration of the Birlik party was dismissed. The Government stated that the process of establishing non-Governmental organizations and their participation in Government decision-making conducive to the democratization of society is actively developing in Uzbekistan and that the republic had registered more than 300 republican and international non Governmental organizations and over 3,000 local public associations. Of these the Ministry of Justice has registered more than 80 international non-Governmental organizations, and the Ministry of Internal Affairs has registered 11 international organizations and 17 interGovernmental organizations. According to the Government non-Governmental human rights organizations were also developing. The most authoritative and active of these are the Public Opinion Research Centre, the Legal Aid Society, the Centre for the Support of Independent Candidates, the Centre for the Study of Human Rights and Humanitarian Law, the Committee for the Protection of the Rights of the Individual, the Association of Businesswomen, the Association of Lawyers and the Association of Judges. According to the Government the first independent Uzbek human rights organization, the Society for Human Rights of Uzbekistan, was registered in the country in February 2002, a second human rights organization, namely "Ezgulik", was registered in March 2003, and these were joined in 2004 by the Institute for Democracy and Human Rights. In October 2002 one of the oldest human rights organizations of the United States of America, Freedom House, opened an office in Tashkent. Today, Freedom House conducts training sessions on the protection of human rights, organizes trips by Uzbek human rights defenders to foreign countries in order to exchange experience, and cooperates closely with law enforcement bodies with a view to strengthening the observance of human rights and ensuring transparency in the activities of the law enforcement structures. Three Freedom House resource and information centres are now in operation (in Tashkent, Namangan and Samarkand) to assist people dealing with human rights in Uzbekistan. According to the Government, the activities of NGOs and also trade unions, national cultural centres, foundations and other public organizations attest to the fact that the growing NGO network in the republic reflects a balance of interests in society and facilitates the resolution of many issues.

578. By a letter dated 29 June 2005 the Government of the Republic of Uzbekistan replied to the communication of 9 May 2005 concerning **Dilobar Khudoberganova, Tamara Chikunova** and the non Governmental organisation “Mothers Against the Death Penalty”. The Government described statements made by Tamara Chikunova in communications with Amnesty International and the International Helsinki Federation for Human Rights regarding the discriminatory sentencing of a Russian citizen to the death penalty as being tendentious and unsubstantiated. The Government stated the law enforcement bodies of the Republic of Uzbekistan had no information concerning instances of the exertion of pressure and physical coercion on members of the organisation “Mothers Against the Death Penalty” and that such allegations were attempts aimed at discrediting the human rights policy of the leadership of the Republic of Uzbekistan and acquiring the image of a “martyr” and “human rights defender”.

579. By a letter dated 29 June 2005 the Government replied to the communication of 26 May 2005 concerning the case of **S. Zainabiddinov**. The Government stated that on 14 October 2004 the Andizhan city procurator’s office opened a criminal case on the basis of indications of an offence (defamation) under article 139, paragraph 3 (d), of the Criminal Code of the Republic of Uzbekistan in respect of S. Zainabiddinov. The criminal case was suspended on 9 December 2004 on the basis of article 84, paragraph 5 (1), of the Code of Criminal Procedure of the Republic of Uzbekistan (grounds for the suspension of a criminal case without a resolution of the question of guilt). On 19 April 2005 the Andizhan city procurator’s office opened a new criminal case on the basis of indications of an offence under article 139, paragraph 2, of the Criminal Code of the Republic of Uzbekistan. Despite the initiation of a new criminal case, S. Zainabiddinov did not cease his unlawful actions. Instances were recorded on 13 May 2005 of the dissemination by S. Zainabiddinov to representatives of the foreign mass media of defamation about the events that were taking place at that time in Andizhan. S. Zainabiddinov’s reports were aimed at creating panic among the population and forming a negative attitude towards the authorities and the constitutional system in Uzbekistan. The aims pursued by S. Zainabiddinov were confirmed on the basis of audio materials collected, as well as by expert judicial psychological, philosophical, and religious and philological evaluations. On 21 May 2005, materials prohibited for reproduction and distribution and presenting a threat to public order and security in the country were discovered in S. Zainabiddinov’s possession and taken from him in the presence of official witnesses during a customs inspection at the Dustlik checkpoint on the state border crossing between Uzbekistan and Kyrgyzstan. After this on 22 May 2005 the Andizhan city procurator’s office revoked the decision concerning the suspension of the first criminal case. The two cases were combined in one proceeding and the investigation was entrusted to the Andizhan oblast department of internal affairs. On 23 May 2005 S. Zainabiddinov was recognized as a suspect in the case under article 139 of the Criminal Code of the Republic of Uzbekistan, and on the same day he was allowed access to the lawyer of his own choosing, M. Akhmedov, and was informed of his rights. On 24 May 2005, S. Zainabiddinov was charged under article 139, paragraph 3 (a) and (d), and article 244-1, paragraph 3 (c), of the Criminal Code (preparation or dissemination of materials containing a threat to public security and public order) and with the approval of the procurator the preventive measure chosen in his respect was detention in custody. The investigation with respect to S. Zainabiddinov is now continuing and all the rights provided for him by the law are being fully ensured. The Government stated that there had been no instances of the use of unlawful methods of treatment against the detainee. The Government stated that concerning citizens U. Bakirov and F. Gafurov officers of the law-enforcement bodies had no connection with the incident

involving the beating of members of the Ezgulik organization that reportedly took place on 20 May 2005 in the city of Andizhan. No statements have been received by the internal affairs authorities from U. Bakirov and F. Gafurov concerning the infliction of bodily injuries upon them by unknown persons. The Government stated that from 23 May up to the time of writing these persons have not been summoned to the Andizhan oblast department of internal affairs and do not figure in criminal proceedings. On 25 April 2005 citizen U. Khaidarov filed a statement with the Dzhizak municipal internal affairs division to the effect that on 23 April 2005 he was assaulted and beaten by an unknown individual. In this connection, on 25 April 2005 the Dzhizak oblast internal affairs department initiated a criminal case on the basis of indications of an offence under article 227, paragraph 2 (a), of the Criminal Code of the Republic of Uzbekistan (seizure, destruction, damage or concealment of documents, stamps, seals or forms), and a thorough investigation is being conducted. The situation is rendered more complicated by the fact that Mr. Khaidarov does not recall the exact features of the offender, and there were no eyewitnesses. Also for the purpose of clearing up this crime, Mr. Khaidarov was shown more than 80 photographs of persons answering the approximate description of the offender, but he was not able to identify any one of them. Investigative operations relating to this case are at present being continued, and no complaints or petitions have been received from the victim.

580. With a letter date 10 August 2005 the Government of Uzbekistan responded to the communication of 18 July 2005. The Government stated that on 17 June 2005 the regional coordinator of the “1,000 women for the Nobel Peace Prize” project, **M. Pikulina** requested that the Ministry for Foreign Affairs to assist in the holding of a conference in Tashkent on 29 June 2005 to announce the results of a project with the participation of six nominees from Uzbekistan; Dildora Alimbekova, Tatyana Chabrova, Dilorom Mukhsinova, Sarigul Bakhadirova and Sakhbakhon Ergasheva were among these six. The Government stated that it had no information regarding the proposed candidature of Tamara Chikunova Mutabar Tadjibaeva and Salima Kadirova. The Uzbekistan Women’s Committee and other State organizations had no information and did not put forward any candidates. As far as it knew, the Government stated that as far as it knew there were no threats against the nominees and that all nominees kept their participation in this activity strictly secret until the day before the official approach to the Ministry for Foreign Affairs. The Government stated that M. Pikulina did hold a meeting with E. Ganiev, the Uzbek deputy Prime Minister and Minister for Foreign Affairs on the day before the conference, during which she was advised not to embark on the undertaking. She was told that the holding of such an event without State involvement constituted an unprofessional approach to the project. The Government further stated that events that take place in the country must be agreed with the official machinery. The Government denied that M. Pikulina was the subject of threats and harassment, that no complaints were lodged by any of the participants, that no legal proceedings were carried out and that no disciplinary, administrative or criminal penalties were imposed on anyone in connection with the event. Finally, the Government stated that it was extremely surprised at the “hullabaloo” surrounding this project.

581. With a letter dated 28 November 2005 the Government of Uzbekistan responded to the communication of 25 July 2005. At the time this report was being finalized, this reply was still being in the process of being translated.

582. With a letter dated 28 November 2005 the Government of Uzbekistan responded to the communication of 12 August 2005. It stated that on 11 August 2005 **Igor Vladimirovich Rotar**,

a citizen of the Russian Federation and correspondent for Forum 18 was refused entry to Uzbekistan because he had repeatedly violated Uzbek legislation. The violations involved Mr. Rotar's work as a journalist without appropriate accreditation from the Uzbek authorities. The Government stated that the information received by the Special Representative was completely false and that he was not arrested, detained or placed in special facilities intended for criminals. During the entire time that Mr. Rogar was at the airport he was in the building for transit passengers, where he moved freely about and had an opportunity to buy food, refreshments and other consumer goods. The Government stated that on 12 August 2005, Mr. Rogar took flight HY-601 to Moscow of his own initiative.

583. In a letter dated 29 November 2005 the Government sent a reply to the communication of 6 September 2005 concerning **Elena Urlaeva**. The Government stated that on 27 August 2005, the law enforcement agencies in Tashent arrested Ms. Urlaeva for distributing material which desecrated and defiled a State symbol of the Republic of Uzbekistan, a punishable offence under article 215 of Uzbekistan's Criminal Code. The Government stated that on 27 August 2005 the Tashkent Prosecutor initiated a criminal investigation of Ms. Urlaeva. According to the government, because Ms. Urlaeva had been mentally ill in the past, the authorities decided to conduct a psychiatric examination as to her mental state at the time of the offence. On 28 August 2005 the examination concluded that Ms. Urlaeva was not of sound mind at the time of the offence and the authorities placed her in a mental institution. The Government stated that following the investigation, the criminal case concerning Ms. Urlaeva was brought before the courts on 16 October 2005. On 27 October 2005 Ms. Urlaeva was absolved from criminal responsibility on the basis of the medical diagnosis and the court ordered her to undergo a course of treatment as an outpatient in a mental hospital. According to the Government, Ms. Urlaeva has since been discharged from the hospital. The Government stated that it wished to draw attention to the unfounded allegations spread by human rights organisations regarding the detention of Ms. Urlaeva and that her detention could not be regarded as arbitrary.

584. In a letter dated 29 November 2005 the Government sent a reply to the communication of 20 September 2005. At the time this report was finalized, this reply was still in the process of being translated.

585. In a letter dated 29 November 2005 the Government of Uzbekistan responded to the communication of 26 October 2005. The Government stated that **Hurshida Togaeva** submitted a complaint on 2 October 2005 to the Pakhator internal affairs office stating that she was being harassed by unidentified individuals who insulted her and threatened her and her family with physical violence. In her complaint Hurshida Togaeva indicated that on 21 and 22 September 2005 an unidentified man came to her home several times while she was away and asked her son if he knew where she was. She also stated that on 24 September 2005, she was attacked by two unidentified men not far from the Bulungur district bus station. The Government stated that pursuant to this complaint, the Bulungur District Office investigated the incident and found nothing to substantiate Hurshida Togaeva's claims and that therefore no proceedings were initiated. Furthermore, the Government stated, that when Hurshida Togaeva went to the Bulungur District Hospital complaining of fatigue, the doctors who examined her found no evidence of physical injuries.

586. In a letter dated 29 November 2005 the Government of Uzbekistan responded to the communication of 27 October 2005. The Government stated that on 7 October 2005 the Fergans oblast procurator's office initiated a criminal case against **Mutabar Tadjibaeva** pursuant to Article 165.2 (b) (extortion) of the Criminal Code of Uzbekistan, on the basis of a communication from Akhmadullo Abdullaev and Khafizidin, respectively director and chief accountant of the Andizhonbalik joint stock company, in respect of whom a criminal case was being investigated. According to the Government, the communication indicated that Mutabar Tadjibaeva had by deceitful means obtained 100,000 sum and US900 from the above mentioned persons to defend their rights and interests during the investigation and in court, yet Mutabar Tadjibaeva did not have access to the criminal file concerning the accused persons in order to act as defence counsel. The Government stated that the investigation also established unlawful actions committed by Mutabar Tadjibaeva in connection with her commercial activities and that Mutabar Tadjibaeva had apparently attempted to extort 1 million sum from T. Mamadaminov, the Andizhonbalik company lessee. On 6 October 2005 T. Mamadaminov gave Mutabar Tadjibaeva 350,000 sum but she ordered him to bring another 250,000 sum as quickly as possible. On 7 October 2005, when receiving the 250,000 sum, Mutabar Tadjibaeva was arrested by law-enforcement officers. On 10 October 2005 she was accused in a criminal case under articles 165.2 (b) ( large scale extortion) and 168.2 (a)(especially large scale fraud) of the Criminal Code of Uzbekistan. Furthermore, the Government stated it was established that Mutabar Tadjibaeva had illegally used 5.2 hectares of land and failed to comply with other regulations. The investigation also determined that Mutabar Tadjibaeva had acquired 100,000 sum from N. Dustmatova by fraudulent means. The above-mentioned criminal suits have been joined in one action against Mutabar Tadjibaeva. The Government stated that the prosecution of Mutabar Tadjibaeva was not related to her human rights work and that the investigation was being conducted in full conformity with procedural standards.

587. In a letter dated 31 December 2005 the Government of Uzbekistan responded to the communication of 16 November 2005. The Government stated that the relevant authorities had examined the information in the communication regarding the alleged physical and psychological threats and pressure against **Aleksei Volosevich** and that these investigations had revealed no confirmation of the allegations. The Government also stated that the National Security Service of Uzbekistan had not received any complaint from **Aleksei Volosevich**.

### **Observations**

588. The Special Representative thanks the Government for its replies to her communications of 7 February 2005, 9 February 2005, 9 May 2005, 26 May 2005, 18 July 2005, 12 August 2005, 6 September 2005, 26 October 2005, 27 October 2005 and 16 November 2005.

589. The Special Representative remains extremely concerned about the situation of human rights defenders in Uzbekistan, which has worsened following the Andijan massacre in May 2005. She notes the extremely hostile environment that human rights defenders operate in and is concerned about allegations of arbitrary arrests, detentions, harassment and torture being used by the authorities to prevent human rights defenders from carrying out their legitimate activities in defence of human rights.

## Venezuela

### Comunicaciones enviadas

590. El 3 mayo 2005, la Representante Especial, junto con el Relator Especial sobre la independencia de magistrados y abogados, envió un llamamiento urgente en relación con **Carlos Ayala Corao**. De acuerdo con la información recibida, el 5 de abril de 2005 el abogado Carlos Ayala Corao, Presidente de la Comisión Andina de Juristas (CAJ) y ex-Presidente de la Comisión Interamericana de Derechos Humanos (CIDH) de la Organización de Estados Americanos (1998/1999), fue citado a declarar en el marco de una investigación que lleva a cabo la Fiscalía Sexta con Competencia Nacional del Ministerio Público. Se afirma que en el documento de citación no se habrían especificado los hechos por los que se le investiga. El Sr. Ayala se presentó a declarar, pero no fue imputado y se fijó para el 14 de abril la siguiente audiencia del caso. El 14 de abril de 2005, la Fiscal Luisa Ortega Díaz imputó al abogado Carlos Ayala Corao la presunta comisión del delito de “conspiración” (tipificado en el artículo 144/2 del Código Penal), en relación a su supuesta participación en la redacción del decreto de 12 de abril de 2002 con el que Pedro Carmona pretendió ilegítimamente disolver los poderes públicos en un golpe de estado. El Sr. Ayala Corao negó con firmeza dicha imputación. Afirmó que, por el contrario, durante los sucesos de abril de 2002, su principal actividad fue proteger los derechos del Congresista Tarek William Saab, detenido por los servicios de seguridad. Durante dicho período, el Sr. Ayala Corao emitió serios cuestionamientos al referido decreto N° 1 del Gobierno de facto de Pedro Carmona Estanga. Se ha expresado preocupación de que las imputaciones contra el abogado Ayala Corao constituyan un intento de impedirle realizar su trabajo en defensa de los derechos humanos, tanto en Venezuela como en foros internacionales. El Sr. Ayala es peticionario en diversos casos sometidos a los órganos del Sistema Interamericano de protección de los derechos humanos, lo que le habría ocasionado ser víctima de diversas amenazas. Se afirma por último que en una reciente sesión sobre la situación de los derechos humanos en Venezuela, la Comisión Interamericana de Derechos Humanos reiteró su “preocupación por la situación de riesgo y estigmatización de la cual son objeto los defensores de derechos humanos en Venezuela y por el clima de hostilidad que enfrentan (...) aquellos defensores de derechos humanos que asistieron a las audiencias de la Comisión” (Comunicado de Prensa N° 8/05 de 11 de marzo de 2005).

591. El 31 mayo 2005, la Representante Especial, junto con la Relatora Especial sobre ejecuciones extrajudiciales sumarias o arbitrarias, envió un llamamiento urgente en relación con **Carmen Alicia Mota de Hernández, Roberto Carlos Hernández Mota** (25 años de edad) y **Carlos Arturo Hernández Mota** (23 años), familiares (respectivamente esposa e hijos) de Arturo Hernández Ortega, quien habría sido asesinado el 12 de abril de 2004. De acuerdo con la información recibida, el 13 de septiembre de 2004, miembros de la familia Hernández Mota, acompañados por miembros de la Red de Apoyo Por la Justicia y la Paz y del Comité de Derechos Humanos en Educación Acción y Defensa del Estado Guarico, denunciaron el asesinato de Arturo Hernández Ortega ante el Fiscal General de la República, implicando a personas relacionadas con la policía. El 23 de septiembre de 2004, el Tribunal Penal en Funciones de Control No. 2 de la Circunscripción Judicial de la ciudad Valle de la Pascua, otorgó una medida de protección en favor de Carmen Alicia Mota de Hernández, Roberto Carlos Hernández Mota, Carlos Arturo Hernández Mota y sus familiares. Desde esa fecha, la medida no habría sido cumplida por el Comando Regional No. 2 de la Guardia Nacional, y la familia

Hernández Mota habría sido víctima de actos intimidatorios y de amenazas de muerte por parte de funcionarios policiales adscritos a la Brigada de Intervención y Apoyo de la Policía Regional del Estado Guarico. Según nueva información recibida, el 5 de mayo de 2005, cuatro agentes uniformados viajando en dos motocicletas se habrían puesto delante del coche de Roberto Carlos Hernández Mota, obligándole a frenar. El 9 de mayo, policías uniformados siguieron de nuevo a Roberto Carlos Hernández Mota. Igualmente, el 16 de mayo de 2005, la familia Hernández Mota habría observado frente a su empresa, en la localidad de Valle de la Pascua, estado de Guarico, a dos agentes de policía uniformados, quienes vigilaban atentamente. Se teme que las amenazas y los actos referidos estén relacionados con la denuncia que la familia Hernández Mota habría formulado ante la Fiscalía.

### **Comunicaciones recibidas**

592. Por carta con fecha el 28 de octubre de 2005, el gobierno de la Republica Bolivariana de Venezuela transmitió la siguiente información sobre la comunicación del 3 Mayo de 2005. El gobierno informo que la Dirección de Protección de Derechos Humanos del Ministerio Publico ha informado que la Fiscal Sexta de ese Ministerio Publico, abogada Luisa Ortega, quien lleva la causa abierta contra el señor **Ayala Corao** desconoce la existencia de algún tipo de denuncia introducida por el implicado. Así mismo el Ministerio Publico reitero que el pasado 14 de abril del presente ano, el señor Carlos Ayala Corao fue imputado por la comisión del delito de conspiración para cambiar violentamente la Constitución de la Republica Bolivariana de Venezuela, lo cual esta previsto y sancionado en el articulo 144, numeral 2 del Código Penal.

593. Por carta con fecha el 3 de noviembre de 2005, el gobierno de la Republica Bolivariana de Venezuela transmitió la siguiente información sobre la comunicación del 31 de mayo de 2005. El Juzgado Segundo en Funciones de Control del Circuito Judicial Penal del Estado Guaric, decidió en fecha 23 de septiembre de 2004, otorgar Medidas de Protección, vigentes hasta la finalización del Proceso Judicial a favor de los ciudadanos con **Carmen Alicia Mota de Hernández, Roberto Carlos Hernández Mota** (25 años de edad) y **Carlos Arturo Hernández Mota** (23 años), familiares (respectivamente esposa e hijos) de Arturo Hernández Ortega. Según el gobierno las victimas han manifestado el no acatamiento de las Medidas decretadas por el Órgano Jurisdiccional competente. LA Dirección de Protección de Derechos Fundamentales insto al Fiscal Superior del Ministerio Publico del Estado Guarico para que haga especial énfasis en la efectiva ejecución del fallo aludido, solicitando al mismo elaborar inmediata y urgentemente todas las diligencias necesarias y correspondientes ante el Juez de Control referido., con el objetivo de que se cumplan cabalmente las medidas decretadas por el Tribunal., garantizando de forma plena, la seguridad e integridad física y psicológica de las victimas en cuestión. En fecha 14 de junio de 2005 se constituyo el Tribunal Segundo de Control y una vez escuchado los hechos, a traves de los cuales las victimas sobre mencionadas expresaron temores por sus vidas, el Tribunal ratifico las Medidas de Protección decretadas el 27 de abril de 2004 en resguardo de la integridad física de Carmen Alicia Mota de Hernández, Roberto Carlos Hernández Mota Carlos Arturo Hernández Mota, acordando que las medidas deberán ser cumplidas por el Destacamento No 28 del Comando Regional no 2, Tercera Compañía de la Guardia Nacional con sede en el Estado Guarico.

## Observations

594. The Special Representative thanks the Government of Venezuela for its response to her communications.

595. The Special Representative also thanks the government of Venezuela for its positive response to her request for an invitation to conduct a country visit.

## Viet Nam

### Communications sent

596. On 10 January 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the question of torture, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning Ms. **Le Thi Hong Lien**, a 21 year-old teacher for the Vietnamese Mennonite Christian Church. She was the subject of a letter of allegation sent by the Special Representative of the Secretary General on the situation of human rights defenders and the Special Rapporteur on freedom of religion or belief on 25 November 2004. According to the allegations received, she is currently detained in the prison infirmary at Chi Hoa Prison, Ho Chi Minh City, where she is suffering from severe mental illness. Prison guards told relatives that they did not have the means to care for inmates with such a severe illness and explained that they have resorted to tying her hands and feet to the bed. She is said to be receiving no treatment for her condition, which is likely to deteriorate further. She was arrested in June 2004 along with a number of other members of the Mennonite community, and was sentenced on 12 November 2004 to 12 months in prison on charges of “resisting a person performing official duty”. These charges reportedly arose from her collaboration with Reverend Nguyen Hong Quang, General Secretary of the Mennonite Church in Ho Chi Minh City and an activist who defended land rights cases of impoverished farmers. It is reported that during her imprisonment she was beaten by prison guards, suffering particularly serious beating by a guard escorting her to and from her trial. In view of the allegations of ill-treatment and denial of appropriate medical treatment, concern was expressed for her physical and mental integrity.

597. On 29 November 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning Mr. **Hoang Minh Chinh**, former Dean of the Hanoi Institute of Marxist-Leninist Philosophy and a vocal advocate of democratic reform. According to the information received, on 13 November 2005, Hoang Minh Chinh returned to Vietnam following treatment in the United States (US) for prostate cancer. While in the US he testified before the Congressional International Relations Committee, spoke at Harvard University and made a number of declarations about the lack of democratic freedom in Vietnam. The Vietnamese official media had widely denounced these declarations. Upon his return to Vietnam Hoang Minh Chinh and his wife were staying with their daughter in Saigon prior to returning to Hanoi. They received a temporary residence permit, valid until 23 November 2005. According to reports, on 19 November 2005, a local security agent warned Hoang Minh Chinh’s daughter that his presence

was problematic in the neighbourhood as he was a “traitor and an enemy of the state”, that he would not receive police protection if violence broke out and that he should return to Hanoi. On 21 November 2005, 50 people reportedly gathered outside his daughter’s home and stabbed the gate with knives and threw eggs at his son-in-law’s car. A neighbour allegedly threw buckets of water with sulphuric acid through the front door. Later that day, 10 young men banged on the door and shouted threats against Hoang Minh Chinh. The police reportedly denied him protection and refused a request for an extension of the temporary residence permit on grounds of ill-health. Grave concern was expressed that these attacks on Hoang Minh Chinh and his family, and continued attacks on him in the official Vietnamese media are a result of his declarations on democracy during his stay in the US. On 31 October 2005 he filed a formal libel suit against seven official newspapers in Vietnam.

### **Communications received**

598. In a letter dated 24 January 2005, the Government of Vietnam responded to the communication of 10 January 2005. The Government stated that the information concerning **Le Thi Hong Lien** contained in the appeal was totally untrue and that the rights to freedom of religion, or belief were enshrined in the Constitution and laws. The Government stated that only law violators would be in accordance with the laws. Furthermore, torture and other forms of inhumane treatment are forbidden. The Mission stated that Le Thi Hong Lien was put on trial on 12 November 2004 and found guilty of “fighting against on-duty public officers”. She was now serving her sentence of one year and that while in prison her rights to healthcare and medical treatment would be ensured.

599. In a letter dated 27 April 2005 the Government of Vietnam communicated to the Special Representative that **Le Thi Hong Lien** was granted special amnesty by the President of the State of Vietnam, along with 7,819 inmates.

### **Responses received to communications sent in previous years**

600. In a letter dated 31 August 2005, the Government of Vietnam transmitted the following information regarding **Nguyen Hong Quang**, who had been the subject a letter of allegation sent jointly by the Special Representative and the Special Rapporteur on freedom of Religion and Belief. The Mission stated that on the occasion of the 60<sup>th</sup> anniversary of the National Day, the State President of Vietnam had decided to grant special amnesty to 10,428 inmates among them Nguyen Hong Quang.

### **Observations**

601. The Special Representative thanks the Government of Vietnam for its response to her communication of 10 January 2005 but regrets that at the time this report was being finalized, she had not received a response to her communication of 29 November 2005.

602. While she welcomes the release of **Le Thi Hong Lien** and **Nguyen Hong Quang** she remains concerned regarding what appear to be arbitrary detentions and arrests of human rights defenders in Vietnam.

## Zimbabwe

### Communications sent

603. On 11 February 2005, the Special Representative sent a letter of allegation concerning members of the Congress of South African Trade Unions (COSATU), including **Zwelinzima Vavi**, the Secretary General of the organisation. COSATU is a non-Governmental organisation that works for democracy and workers' rights. According to the information received, on 2 February 2005, a COSATU mission, which included Mr. Vavi, arrived in Zimbabwe for a 48-hour visit. The mission reportedly aimed at meeting members of the Zimbabwe Congress of Trade Unions (ZCTU) to discuss problems they have allegedly met in the conduct of their work. It is reported that the mission was expelled from the country upon arrival. Our information indicates further that, on 26 October 2004, another COSATU mission was expelled from Zimbabwe a few hours after the mission had started a meeting at the headquarters of ZCTU. Allegedly, the headquarters was then raided by the police. Concern is expressed that the reported expulsions of these COSATU missions, which included Zwelinzima Vavi, may be aimed at preventing the human rights defence activities of COSATU and in particular its attempts to assess the situation of trade union members in Zimbabwe.

604. On 15 February 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal concerning the following members of the Zimbabwe Congress of Trade Unions (ZCTU), a non-Governmental organisation that works to promote, protect and advance the rights of workers: Mr. **Wellington Chibebe**, Secretary-General, Ms. **Lucia Matibenga**, Vice President, Mr. **Timothy Kondo**, Central Region Vice Chairperson, and Mr. **Sam Machinda**, Advocacy Coordinator. Mr. Chibebe was already subject to an urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary General on the situation of human rights defenders on 9 October 2003 and to a letter of allegation sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary General on the situation of human rights defenders on 26 November 2003. The Special Rapporteurs and the Special Representative are in receipt of the reply of your Excellency's Government to the urgent appeal of 9 October 2003. According to the information received, on 5 August 2004, the police arrested the above-mentioned persons in Gweru, Harare while attending a ZCTU workshop on inter alia the impact of high taxation levels on workers, HIV/AIDS and the National Social Security Authority (NSSA). They were reportedly accused with organising the workshop without police clearance. Allegedly, trade unions are exempted from requesting such police clearance in accordance with section 46 (j) of the Public Order and Security Act (POSA). The information received indicates that, on 6 August 2004, these four persons were released on Z\$200,000 bail after a short hearing at the Gweru court. On 8 September 2004, the Gweru court reportedly accused them with contravening section 19, subsection 1B of the POSA on the grounds of conducting a riot, disorder or intolerance by "uttering words likely to cause despondence and encourage the overthrow of the Government". It is alleged that, in a hearing on 3 November 2004, the charges against Mr. Matibenga, Mr. Kondo and Mr. Machinda were dropped. According to the information received, the case against Mr. Chibebe was pending and the next hearing is scheduled to be held on 1 March 2005. Concern was expressed that the

reported arrest, charge and trial of Mr. Wellington Chibebe, Ms. Lucia Matibenga, Mr. Timothy Kondo and Mr. Sam Machinda may be in retaliation for their activity in defence of the rights of workers, in particular the organisation of a ZCTU workshop on 5 August 2004.

605. On 19 April 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent a letter of allegation concerning **Jenni Williams, Magodonga Mahlangu** and other members of Women of Zimbabwe Arise (WOZA); a grassroots organisation working to promote and protect women's activism, whose members have already been the subject of a previous communication by the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, on 29 September 2004. According to new information received, on the evening of 31 March 2005, in Africa Unity Square, in Harare, police arrested approximately 260 women at a peaceful, post-election prayer vigil. It has been reported that not all who were arrested were participating in the demonstration. Some of the women were elderly, or were accompanied by small children. According to the source, several of the women were allegedly beaten by members of the police during their arrest. As a result, several were injured, and at least three of them, seriously injured. They were reportedly denied any access to medical treatment. The women were detained at Harare Central Police Station, where they were allegedly detained overnight in overcrowded conditions, which led to many of them spending the night in the open-air courtyard. The women were denied access to their lawyers until the following day, 1 April 2005. After which, the police reportedly informed the detainees that they could either pleaded guilty to road traffic offences, pay a fine and be released; or remain in detention over the weekend, until the court reopened on 4 April, after which they would face charges under the repressive Public Order and Security Act (POSA). Over the course of 1 April, all the women elected to pay the fines and were released. Concern was expressed that the recent wave of arrests is simply further evidence of the existence of a targeted campaign of harassment against WOZA activists.

606. On 20 May 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation concerning several hundred protestors, including, **Jenni Williams, Magodonga Mahlangu** and other members of Women of Zimbabwe Arise (WOZA); a grassroots organisation working to promote and protect women's activism, whose members have already been the subject of previous communications by the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, on 29 September 2004 and 26 September 2003. According to new information received, on the evening of 31 March 2005, in Africa Unity Square, in Harare, police arrested approximately 260 women at a peaceful post-election prayer vigil. It has been reported that not all who were arrested were participating in the demonstration. Some of the women were elderly, or were accompanied by small children. According to the source, several of the women were allegedly beaten by members of the police during their arrest. Some were forced to lie on the ground and were beaten on the buttocks by police officers. Others were beaten while trying to get out of police vehicles. As a result, several were injured, and at least three of them, seriously injured. They were reportedly denied any access to medical treatment. The women were detained at Harare Central Police Station, where they were allegedly detained overnight in overcrowded conditions, which led to many of them spending the night in the open-air courtyard. The women were denied access to

their lawyers. The following day, 1 April 2005, the police reportedly informed the detainees that they could either plead guilty to offences under the Road Traffic Act, pay a fine and be released, or remain in detention over the weekend until the court reopened on 4 April, after which they would face charges under the repressive Public Order and Security Act (POSA). Over the course of 1 April, all the women elected to pay the fines and were released. Concern was expressed that the recent arrest and detention of women's rights activists, including WOZA members, is part of a pattern of targeted violations by State authorities against them and intended to discourage them from carrying out their human rights activities.

607. On 28 June 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent an urgent appeal concerning 29 members of the Women of Zimbabwe Arise (WOZA). According to information received, on 20 June 2005 at around 11:00 in Bulawayo, 100 women carrying placards and banners started a peaceful demonstration against alleged forced evictions of thousands of people in the context of Operation Murambatsvina (Drive out the rubbish). Soon after, police officers blocked their way and the women sat down in protest. Twenty-nine women were arrested. They were all detained for 48 hours before appearing in court to face charges of blocking the traffic in violation of the Miscellaneous Offences Act. They were all released on bail. The first trial hearing before the Provincial Magistrate's Court is scheduled for 11 July 2005. Many of the arrested women are themselves vendors who have lost their homes as a result of Operation Murambatsvina. It was reported that the conditions of detention were inadequate and that the women were kept in small, dirty cells, without food and with only two blankets for them to share. While in detention, some of the women were assaulted. Siphwiwe Maseko, for example, was indiscriminately picked out from the women and beaten with a baton on her back and on her feet by plain clothes officers. The officers tried to force her to give them names of the leaders and funding partners of WOZA.

608. On 27 July 2005, the Special Representative sent an urgent appeal concerning the **Zimbabwe Human Rights Organisation (ZimRights)**. According to the information received, at 11.45 pm on 19 July 2005, three members of the police forces reportedly demanded to be allowed inside ZimRights premises without search warrant. It is reported that the security guard who reportedly feared to oppose law enforcement representatives was forced to open the gate. The officers then proceeded to inspect the organization's premises, reportedly indicating that they had been "assigned to work at ZimRights premises for some times". They also went to the International Socialist Organisation (ISO), sheltered by ZimRights, where they found Mr. Briggs Bomba, ISO Officer, working alone in the office. According to the information received, they insisted on staying overnight reportedly to "protect" people and were heard sending the following messages over the radio "we are now inside, we are ready". Mr. Bomba reportedly not daring to leave stayed in the office all night. The officers were reported to have taken turns watching the premises throughout the night and left at 5.00 am indicating to ZimRights security guards that another police team would come to replace them. However, nobody came. On July 25 2005, lawyers, on behalf of ZimRights lodged a complaint at the Harare police station.

609. On 19 August 2005, the Special Representative, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal in connection with Mr. **Lovemore Madhuku**, Chairman of the National Constitutional

Assembly (NCA), a non-Governmental organisation grouping individual Zimbabwean citizens and civic organisations including, labour movements, student and youth groups, women groups, churches, business groups and human rights organisations, and Mr. Bright Chibvuri, a journalist at *The Worker*, a newspaper published by the country's largest labour movement, the Zimbabwe Congress of Trade Unions (ZCTU). Mr. Lovemore Madhuku was the subject of an allegation letter sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 13 October 2004 and an allegation letter sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 11 October 2004. Mr. Bright Chibvuri was the subject of an allegation letter sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on 11 October 2004. According to the new information received, on 4 August 2005, Mr. Lovemore Madhuku and Mr. Bright Chibvuri were arrested by members of the riot squad who were called by police to monitor a public protest, organized by NCA, in favour of a new constitution. Mr. Lovemore Madhuku and Mr. Bright Chibvuri were allegedly charged under section 19 of the Public Order and Security Act (POSA) before being released on bail of Z\$250,000 on 5 August 2005. Concern was expressed that the arrest of Mr. Lovemore Madhuku and Mr. Bright Chibvuri may constitute an attempt to prevent them from carrying out their human rights activities and promotion of democracy and the rule of law in Zimbabwe.

610. On 3 November 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a letter of allegation concerning Mr. **Officen Nyaungwe**, Mr. **Claris Madhuku**, Mr. **Sozwaphi Masunungure**, Mr. **Isiah Makatura**, and Mr. **Wilson Shonhiwa**, field officers for the Mass Public Opinion Institute, Harare. The Institute works at promoting and strengthening democratic governance through research, publishing and facilitating discussion of public opinion on topical issues, in order to achieve interaction between policy makers and the citizens they serve. They also promote and encourage the institutionalisation of democracy in Zimbabwe. According to the information received, on 25 October 2005, at approximately 16:00, Officen Nyaungwe, Claris Madhuku, Sozwaphi Masunungure, Isiah Makatura and Wilson Shonhiwa were abducted from a farming community, near Harare, which is under the auspices of Ushewokunze Cooperative, where they had been conducting research. They were allegedly severely beaten by a group who call themselves "war veterans". The field officers were allegedly accused of acting against national interests and were then beaten by the "war veterans" and a soldier from the Zimbabwe National Army, who was in full military apparel, before the local community of over 100 people. During the beating the "war veterans" and the soldier reportedly demanded identification cards from the five field officers, upon production of these cards it was established that Claris Madhuku is related to Mr. Lovemore Madhuku (see communications dated 22 August 2005, 13 October 2004 and 11 October 2004), Chairperson of the National Constitutional Assembly (NCA). Claris Madhuku reportedly received a further beating "for the sins of his brother". The assaults allegedly lasted for three hours before they were released at approximately 19:00 after the assailants confiscated all the research materials including the questionnaires that had been filled out, and took details of their addresses and personal particulars. The assailants then reportedly gave the five researchers back their car keys and ordered them to leave the community. They were admitted to the Avenues Clinic for treatment, where three were treated and two were hospitalised and kept in overnight for monitoring as they sustained severe injuries. Concern was expressed that Officen Nyaungwe, Claris Madhuku, Sozwaphi Masunungure, Isiah

Makatura and Wilson Shonhiwa were targeted due to research they were conducting relating to perceptions and notions of democracy in Africa and Zimbabwe on behalf of the Mass Public Opinion Institute of Harare.

611. On 16 November 2005, the Special Representative, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal concerning, Mrs. **Netsai Mushonga**, Coordinator of the Women's Coalition, an umbrella body of women's rights groups in Zimbabwe. According to the information received, on 8 November 2005, Netsai Mushonga was arrested and detained, allegedly for convening a meeting under the name of 'Women Peacemakers International'. The meeting was a workshop aimed at training women in the use of non-violent means as a tool for dispute resolution. On 10 November 2005, Netsai Mushonga was charged with contravening section 24 (6) of the Public Order and Security Act (POSA), which criminalizes organizing a political meeting without informing a regulatory authority. She was released on the same day but has been warned by the police that she will be summoned to appear in court once they have completed their investigations. Concern was expressed that the arrest, detention and investigation into Netsai Mushonga constituted an attempt to prevent her from carrying out her human rights activities, in particular for women's rights in Zimbabwe.

#### **Communications received**

612. On 15 February 2005, the Government responded to the communication of 11 February 2005. The Government stated that the two COATSU delegations, which were expelled from Zimbabwe, failed to satisfy immigration criteria when they sought to enter the country. The Government stated that the ZCTU was a bona fide workers' representative body in Zimbabwe and it continued to articulate competently the concerns of its members in Zimbabwe. The Government stated that no particular case had been brought to its attention by COATSU and that the Zimbabwean authorities would be willing to answer any questions on any specific issue of interest to anyone.

613. On 31 August 2005, the Government replied to the communication of 28 June 2005. The Government stated that the law in Zimbabwe, like the law anywhere else in the world was meant to regulate human conduct and that in this particular case so as to ensure that though demonstrators have a right to demonstrate they should not infringe the rights of others. The Government stated that it must be emphasized that law is not targeted at any group of people but the nation at large. The Government stated that Women of Zimbabwe Arise was formed by Jennifer Williams when it was obvious that the land redistribution programme would not be reversed. According to the Government, Jennifer Williams had been the spokesperson for the Commercial Farmers' Union before its demise and that it was from this background that she had stated that she would not obey the law. The Government also stated that she had used every avenue to distort any arrest made as victimisation. The Government stated that it did not create any laws but enforces the relevant legislation regarding any conduct and in this case, the Miscellaneous Offences Act Chapter 9 which at section 3(2)(g) sanctions against the "obstruction of free passage along any street". The Government also stated that the incident did not occur on 20 June 2005 but on 18 June 2005. The 29 women were arrested for a prima facie case under the Miscellaneous Offences and were charged under Bulawayo Central reference CR

663/06/2005. A competent court released them on bail. With regard to Siphwe Maseko the Government stated that she did not raise any allegations of abuse and had she raised the issue the case would have been investigated and the culprits brought to book. The Government stated that it must be emphasized that the Zimbabwe Republic Police is fully committed to the cultivation and observation of human rights in Zimbabwe and that as an example of this commitment, it had taken corrective and punitive measures on all those alleged to have committed human rights abuses. The Government attached a sample of members of the police force who had committed such abuses and the sanctions imposed upon them.

### **Responses received to communications sent in previous years**

614. In a letter dated 28 October 2004 but received on 8 February 2005, the Government of Zimbabwe responded to the communication of 1 September 2004, in relation to the NGO bill. The Government stated that in reference to the communication sent and the Bill, it wished to convey the following position: The Draft Bill does not require all non Governmental organizations to register with the New Non-Governmental Organisations Council”, but only those defined as non-Governmental organizations by the Act. It may happen that some do not qualify depending on their activities or objectives. The Government confirmed that section 9 makes it criminal to operate without registration and that this was intended to ensure that organizations register and it deters would-be offenders. The NGO Council is being created to supervise and regulate the operation of non-Governmental organizations. The Government stated that it had discovered shortcomings in the NGO sector and that this was the reason for the creation of the NGO Council. The Council members are appointed by the Minister from names submitted from various stakeholders. According to the Government, the powers of the Council as stipulated and are not “wide-ranging” but are the different, appropriate and valid functions of the NGO Council. With regard to the restrictions on foreign funding it is confirmed that Clause 9 and 17 provide for this. The Government stated that foreign-funded ngo’s were becoming overly political to the extent of seeking change of Government in Zimbabwe, and that they ere doing this with assistance of the former colonial power Britain, and its allies the U.S.A. and the E.U. The Government of Zimbabwe is of the very firm view that the NGO law does not breach any of the Conventions mentioned in the communication and that the rights conferred by these Conventions were not absolute, but subject to security concerns.

### **Observations**

615. The Special Representative thanks the Government of Zimbabwe for its replies to her communications of 11 February 2005, 19 April 2005, 28 June 2005 and 28 October 2004.

616. She remains gravely concerned about the reported arrests, detentions and harassment of human rights defenders. She takes note of the Government’s position regarding the NGO bill but reiterates her concern about the possible effects of the Bill on the activities of human rights organizations.

617. The Special Representative regrets that the Government of Zimbabwe has still not responded favourably to her request for an invitation to conduct an official visit to assess first hand the situation of human rights defenders.

-----