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

**Report of the Special Rapporteur on the right of everyone
to the enjoyment of the highest attainable standard of
physical and mental health, Paul Hunt**

Addendum

Summary of cases transmitted to Governments and replies received*

* The present addendum is issued in the languages of submission only.

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Introduction

1. By its resolution 60/251 of 15 March 2006, the General Assembly decided to conclude the work of the Commission on Human Rights and create the Human Rights Council. The Human Rights Council, by its decision 1/102, extended the mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (“right to the highest attainable standard of health” or “right to health”) set out in resolution 2002/31 of the Commission on Human Rights.
2. In accordance with his mandate, the Special Rapporteur regularly receives information related to the right to the highest attainable standard of health. This information sometimes includes credible allegations of serious violations of the right to health. In such cases, where his resources permit, the Special Rapporteur writes to a Government or another relevant actor, independently or together with other special procedures, inviting comments on allegations, seeking clarifications and urging appropriate remedial action where relevant.
3. This addendum contains, on a country-by-country basis, summaries of communications sent by the Special Rapporteur between 2 December 2005 and 1 December 2006. These include summaries of urgent appeals and letters of allegation, as well as follow-up communications. The addendum also includes replies received by the Special Rapporteur during this period, including replies to two communications that he sent prior to 2 December 2005.¹
4. Most of the communications of the Special Rapporteur have been sent jointly with one or more special procedures of the Human Rights Council. During the period under review, the Special Rapporteur sent a total of 16 communications to 14 Member States, three communications to the Global Fund to Fight AIDS, Tuberculosis and Malaria (the Global Fund), and one communication to the United Nations Interim Administration Mission in Kosovo (UNMIK). Seven communications dealt with the denial of access to health care in detention settings; five concerned access to health care, including in the context of suspension of health care services, the denial of medical treatment to those with HIV/AIDS, the closure of hospitals and the termination of grants to Myanmar by the Global Fund; three concerned sexual and reproductive health issues; two involved the impact of toxic waste upon health. The Special Rapporteur has received five replies from Governments and one each from the Global Fund and UNMIK.
5. The Special Rapporteur is grateful to those Governments and international organizations which have replied to his communications. However he regrets that the majority of Governments, including those who purport to champion human rights, have failed to respond at all, or have responded only partially to the questions arising from the communication. Full responses to these communications remain outstanding.

¹ Summaries of these communications are included in the communications addendum to the Special Rapporteur’s report to the Commission on Human Rights in 2006, E/CN.4/2006/48/Add.1.

Argentina

Communications sent

6. On 14 August 2006, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women, its causes and consequences, concerning the situation of L.M.R, a 19 year old woman with an intellectual disability and mental age of eight, who was raped by her uncle in March 2006. L.M.R went voluntarily to a hospital to obtain an abortion, in accordance with her right under domestic law. However, a judge allegedly intervened and ordered the hospital to discharge L.M.R. According to the information received, the Supreme Court of Buenos Aires Province authorised the abortion on 31 July. By the 20th - 22nd week of her pregnancy, L.M.R. still had not received the procedure. It was alleged that the bioethics committee of the hospital of San Martin claimed that abortions could not be performed after 20 weeks. Serious concerns were expressed about the physical and mental health of L.M.R. Reference was also made to the publication of the World Health Organization (WHO), *Safe Abortion: Technical and Policy Guidance for Health Systems*, which advised that, “all levels of the health system should be able to refer women to centres that have the capacity to perform later abortions safely”. The Government was asked whether regulations had been issued to ensure access to safe and voluntary abortions in situations which are not prohibited by domestic law.

Communications received

7. By letter dated 25 September 2006, the Government replied to the communication sent on 14 August 2006. The Government confirmed that after the intervention of Inés Siro, the judge for the protection of minors, and two anomalous legal decisions in lower courts, L.M.R was granted legal permission to have an abortion. The Government also confirmed that after the San Martín Hospital refused to perform the termination because of the late stage of pregnancy, the abortion was performed at a private clinic funded by women’s organizations. It was also stated that two Members of Parliament had brought impeachment proceedings against Ms. Siro on account of her ultra vires intervention. The Government also explained that regulations for safe and voluntary abortions in situations not prohibited under the Penal Code had not been introduced. However, the Government stated that the Human Rights Secretariat of the Ministry of Justice would strongly recommend that the colleges of magistrates should implement measures to ensure that judges are regularly brought up to date on the laws governing abortion.

Observations

8. The Special Rapporteur thanks the Government for its detailed reply.

Australia

Communications sent

9. On 12 October 2006, the Special Rapporteur sent an urgent appeal concerning the access to health care of individuals holding a Bridging Visa E, as well as the enjoyment of the right to health by asylum seekers in detention centres in Australia. Asylum seekers provided with a bridging visa E were ineligible for financial support and Medicare, and were not granted a right

to work. It was alleged that many asylum seekers released from detention centres on medical grounds were unable to access the health care they needed because of their visa status. It was also alleged that some detention centres were unable to provide culturally appropriate mental health care required by many asylum seekers. This was compounded by the detrimental impact of detention upon the mental health of detainees, particularly children. Further, it was also alleged that there was a failure to ensure the underlying determinants of health, such as adequate sanitation and safe and potable water, in some detention centres.

Observations

10. The Special Rapporteur regrets that at the time of the finalization of this report, the Government has not transmitted any reply to his communication.

Belgium

Communications envoyées

11. Le 9 octobre 2006, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la liberté de religion ou de conviction, concernant la situation de Govind Prasad Srivastava, citoyen indien, détenu à la prison de Forest dans l'attente de son extradition vers l'Inde. D'après les informations reçues, une requête écrite et soumise aux autorités pénitentiaires de la part de M. Srivastava afin de rencontrer un conseiller religieux hindou, en particulier parce qu'il dit souffrir de dépression, aurait été rejetée. En outre, depuis qu'il est détenu, M. Srivastava n'aurait pas reçu une alimentation qui tienne compte de ses croyances religieuses ou de son diabète. Apparemment, plusieurs demandes pour une alimentation appropriée à son état de santé ont été refusées par l'administration pénitentiaire en raison des règles pénitentiaires, et il aurait, en conséquence, perdu 10 kilos et souffrirait de dépression. En vertu des règles pénitentiaires belges, l'administration pénitentiaire assure un repas chaud par jour à tous les prisonniers, cependant les alimentations spéciales ne sont pas fournies aux prisonniers sauf si le service de la prison indique qu'un détenu en particulier en a besoin pour des raisons médicales. De plus, si les détenus ont une alimentation spéciale en raison des croyances religieuses ou autres convictions, ils peuvent acheter d'autres types de nourriture à la cantine et se la faire livrer à leurs frais par des communautés religieuses locales. Cependant, M. Srivastava prétend que la nourriture disponible à la cantine et convenant à ses besoins, est limitée à des « snacks » froids, et qu'il n'y a pas de communauté hindoue locale qui livre de la nourriture aux détenus hindous.

Communications reçues

12. Par lettre datée du 5 décembre 2006, le Gouvernement a répondu à l'appel urgent, envoyé conjointement avec le Rapporteur spécial sur la liberté de religion ou de conviction le 9 octobre 2006. Le Gouvernement a précisé que, d'après le directeur principal de la prison de Forest, M. Srivastava n'avait pas personnellement déposé de demande en vue de rencontrer un conseiller religieux hindou. Par contre, une demande de visite déposée par un représentant d'une organisation « pour la conscience de Krishna » a été refusée par le directeur de la prison, puisque celle-ci est considérée comme une secte (ou organisation sectaire nuisible) par les « règles administratives pénitentiaires » applicables en matière d'accès à des conseillers religieux

et par le régime ordinaire des visites. La législation applicable en matière de délivrance d'une alimentation répondant à des besoins religieux maintient que les détenus peuvent à leur demande recevoir des repas provenant de l'extérieur, préparés selon les formes rituelles, et fournis par l'intervention d'un aumônier ou conseiller religieux ou moral, pour autant que les repas soient du même type que ceux fournis aux autres détenus, que le débours ne dépasse pas le débours prévu pour les repas livrés aux autres détenus, et que le conseiller moral ou religieux d'un culte non reconnu ou d'une organisation non reconnue par la loi reçoive l'autorisation du directeur de livrer les repas. Le Gouvernement a signalé qu'au cours de son incarcération M. Srivastava a été vu par le médecin généraliste neuf fois pour des problèmes de diabète et de tension artérielle, ainsi que deux fois par un cardiologue et une fois par un psychiatre. Sa glycémie a été contrôlée pendant son incarcération et a été stabilisée après un mois, mais il n'est pas fait mention de perte de poids dans le dossier médical ni de difficultés par rapport aux repas. Le détenu a éventuellement été libéré en vue de son extradition le 10 octobre 2006.

Observations

13. Le Rapporteur spécial remercie le Gouvernement pour sa réponse détaillée.

China

Communications received

14. By letter dated 12 December 2006, the Government replied to the joint urgent appeal sent on 29 September 2005 by the Special Rapporteur and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/2006/48/Add.1, para 11). In that communication, the Special Rapporteurs expressed concern about Zeng Yichun, a writer and poet convicted of incitement to subversion and sentenced to seven years in prison after a trial that lasted three hours. It was alleged that in prison he was not receiving adequate medical treatment for his diabetes. The Government stated, inter alia, that Zeng Yichun's current state of health was good and that the allegation that he suffered from diabetes and was not receiving adequate medical treatment was "quite unfounded".

15. By letter dated 12 May 2005 the Government replied to the communication sent on 16 December 2004 by the Special Rapporteur, the Chairperson of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning Zhang Rongliang, leader of the China for Christ church and the Protestant Frangcheng Mother church. It was alleged that Zhan Rongliang was detained by police on 1 December 2004 in Henan Province. Reportedly, he had been imprisoned five times for his beliefs, for a total of 12 years. It was also alleged that he did not receive medical treatment for his diabetes. The Government confirmed that Mr Rongliang was detained on 1 December 2004 because he was suspected of using (or possessing) fraudulent travel documents. The Government stated that the allegation regarding the denial of medical treatment was not true.

Observations

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

Colombia

Communications received

17. By letter dated 23 January 2006, the Government replied to the joint letter sent by the Special Rapporteur and the Special Rapporteur on violence against women, its causes and consequences, on 13 June 2005 (E/CN.4/2006/48/Add.1, para. 15). In that communication, the Special Rapporteurs had expressed concern about the implementation of legislation in Colombia, which makes abortion punishable as an illegal act in all circumstances. In its response, the Government stated that while abortion is illegal in Colombia, criminal law provides for certain circumstances, such as if the pregnancy is “the result of an act constituting rape, sexual abuse, or artificial insemination or transfer of a fertilised ovum without consent”, where penalties may be reduced to 4 months in prison. If, in addition, the abortion is carried out in “extraordinary or unusual motivating circumstances”, then the penalties may be waived altogether. The Government asserted that such an exemption constituted adherence to all of Colombia’s international obligations.

Observations

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

Costa Rica

Comunicaciones enviadas

19. El 27 de julio de 2006, el Relator Especial, juntamente con el Relator Especial sobre la cuestión de la tortura y el Relator Especial sobre los derechos humanos de los migrantes, envió un llamamiento conjunto urgente respecto a la entrada de una persona de unos 30 años de edad proveniente del Camerún al aeropuerto internacional de Santamaría de San José. Según la información obtenida, las autoridades de inmigración habrían rechazado la entrada a la persona en cuestión. Esta sería seropositiva y podría padecer asimismo de hepatitis o meningitis. Las autoridades no le habrán proporcionado ningún tipo de asistencia médica o legal. La persona en cuestión estaría viviendo en una caja de cartón, en condiciones higiénicas lamentables, desde que llegó al aeropuerto hacía ya dos meses.

Comunicaciones recibidas

20. Por carta de fecha 4 de agosto de 2006, el Gobierno respondió al llamamiento urgente solicitado juntamente con el Relator Especial sobre la cuestión de la tortura, y el Relator Especial sobre los derechos humanos de los migrantes el 27 de julio de 2006. De acuerdo con el registro de la Dirección General de Migración y Extranjería en el aeropuerto de Santamaría, el 15 de junio de 2006, la Policía de Control de Drogas detectó a un pasajero de nacionalidad camerunesa, Sr. Koagne Apez Yannick, que viajaba con la aerolínea Iberia en calidad de tránsito desde Guatemala y con destino a Madrid, utilizando un pasaporte alterado de nacionalidad costarricense. Se coordinó la salida del extranjero con la aerolínea Taca de regreso a Guatemala para el día siguiente mientras permanecía en la sala de estar custodiado por un oficial de seguridad. El 16 de junio, el extranjero fue transferido al hospital San Rafael de Alafuela para

determinar su estado de salud. Este padecía hepatitis B y estaba en fase terminal de SIDA. El 29 de junio, el extranjero fue dado de alta y recogido por un oficial de seguridad para ser trasladado a Guatemala por Taca. Sin embargo, Taca se negó a abordarlo y fue trasladado de nuevo al hospital para permanecer ahí, mientras Iberia realizaba nuevas gestiones para sacar del país al extranjero. El 13 de julio, se facilitó un certificado médico que indicaba que el extranjero había mejorado su estado de salud, que no requería de oxígeno ni alimentación especial, que su estado no era infectocontagioso, y por lo tanto poseía una condición clínica aceptable para su salida. El 14 de julio, el extranjero fue trasladado del hospital al aeropuerto para salir del país el mismo día, pero esto no se pudo realizar y el extranjero fue enviado a un hotel para pasar la noche. Al día siguiente el extranjero no hizo abandono del país y durante los tres días y noches siguientes, el extranjero permaneció en la sala de espera, aun sabiendo que esto podía complicar su estado de salud. Luego de la intervención de la Dirección General de Migración y Extranjería, el extranjero fue trasladado a un hotel el 17 de julio, donde permanecería hasta su salida del país, esperada para el 20 de julio. El 18 de julio, Iberia presentó tres condiciones para permitir el embarque del extranjero. El 21 de julio, en una reunión entre representantes de Iberia, el Ministerio de Seguridad Pública, la Embajada de España en Costa Rica, y la Dirección General de Migración y Extranjería, se acordó que esta última emitiera un documento de viaje al extranjero, ya que el extranjero no poseía un pasaporte válido. Al día siguiente, todos los documentos necesarios fueron entregados por la Dirección General a Iberia para que, una vez analizados, se permitiera la salida del extranjero. En virtud del fallecimiento del extranjero, su documento de identidad fue decomisado el día 27 de julio. La empresa Iberia, de buena fe, veló en todo momento por el cuidado del pasajero proveyéndole un custodio que lo acompañó en todo tiempo. En todo momento el extranjero recibió los cuidados médicos necesarios dada su enfermedad.

Observaciones

21. El Relator Especial le agradece al Gobierno su respuesta detallada.

Cuba

Comunicaciones enviadas

22. El 24 de febrero de 2006, el Relator Especial, juntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, envió un llamamiento conjunto urgente respecto a la situación del Sr. José Ubaldo Izquierdo Hernández, activista de derechos humanos, periodista y bibliotecario independiente miembro de la asociación de periodistas independientes Grupo de Trabajo Decoro, detenido el 18 de marzo de 2003 y actualmente encarcelado en la cárcel de Guanajay (provincia de La Habana). La detención del Sr. Izquierdo Hernández junto con la de otros individuos fue objeto de una comunicación enviada por el Relator Especial juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la independencia de los magistrados y abogados el 19 de mayo de 2003. Cabe destacar que en su opinión 9/2003 (véase E/CN.4/2004/3/Add.1), el Grupo de Trabajo sobre la Detención Arbitraria concluyó que la detención del Sr. Izquierdo Hernández es arbitraria. Según la información

recibida, el estado de salud del detenido se habría deteriorado hasta el punto de ser declarado incompatible con su detención. Se alega que el detenido padecería diversas lesiones estomacales y hemorragias gastrointestinales que según la opinión de los propios médicos penitenciarios no pondrían ser curadas en la cárcel, donde solo se le podría administrar un medicamento paliativo. Se expresó una grave preocupación por la salud del detenido y por el peligro que podría correr su vida si se le mantiene recluido.

Comunicaciones recibidas

23. Por carta de fecha 6 de marzo de 2006, el Gobierno respondió al llamamiento urgente solicitado juntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, y la Representante Especial del Secretario General sobre la situación los defensores de los derechos humanos el 24 de febrero de 2006. En su respuesta, se indicó que el Sr. Izquierdo Hernández fue sancionado por un delito de actos contra la independencia o la integridad territorial del Estado y no por ser defensor de derechos humanos. El mismo no fue arrestado, enjuiciado o sancionado por el ejercicio o la defensa de la libertad de opinión o de expresión, y fue señalado que el detenido no es sindicalista, periodista o activista político. Tampoco fue juzgado o sancionado por el disfrute de alguno de los derechos humanos reconocidos en la Declaración Universal de Derechos Humanos. El Sr. Izquierdo Hernández fue sancionado, por un tribunal competente, tras haberse cumplido todas las garantías del debido proceso, por actos contra el orden constitucional como asalariado de una potencia extranjera. El derecho a la vida y a la integridad física de esta persona está asegurado. En los centros penitenciarios existen instalaciones de cuidados médicos a fin de garantizar el derecho a la salud de los reclusos, donde se brindan servicios médicos y estomatológicos, de forma gratuita. Además, en caso de enfermedades que necesitan cuidados especializados, en los hospitales se han habilitado salas especiales que brindan atención a estas personas sancionadas. Se informó que su estado de salud es estable y perfectamente compatible con sus condiciones de internamiento. Si alguna vez esto dejaría de ser así, el detenido recibiría inmediatamente una licencia extrapenal por motivos de salud.

Observaciones

24. El Relator Especial le agradece al Gobierno su respuesta detallada.

Dominican Republic

Comunicaciones enviadas

25. El 12 de junio de 2006, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación los defensores de los derechos humanos, envió un llamamiento conjunto urgente respecto a la situación del Sr. Adonis Polanco, defensor de los derechos humanos de las personas que viven con VIH/SIDA. En octubre de 2005, el Sr. Polanco, quien trabaja como consejero en una clínica de salud para personas que viven con VIH/SIDA, habría participado en algunas entrevistas emitidas por la radio en la cual habría denunciado la falta de asistencia que habría recibido por el Gobierno, cuando fue diagnosticado seropositivo en 2004. Según se informa, después de su participación en esas entrevistas, esta

persona habría recibido llamadas amenazantes y habría sido seguido por personas desconocidas. Se expresan temores que las amenazas en contra del Sr. Polanco puedan estar relacionadas con su trabajo en defensa de los derechos humanos de las personas que viven con VIH/SIDA, en particular porque ha denunciado públicamente la falta de asistencia por las personas que viven con VIH/SIDA en la República Dominicana.

Observaciones

26. El Relator Especial lamenta que en el momento de realización de este reporte no se haya recibido ninguna respuesta del Gobierno.

Mauritania

Communications envoyées

27. Le 4 août 2006, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Présidente-Rapporteur de Groupe de travail sur la détention arbitraire et le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, concernant la situation de la détention et du maintien en détention par les autorités, d'un certain nombre d'experts de l'islam et de dissidents politiques dans la prison civile de Nwakshot (connue sous le nom de Al sijn Al Madani). Selon les informations reçues, le 14 septembre 2005, le juge d'instruction aurait décidé que tous les détenus devaient être relâchés jusqu'au procès. En dépit de la confirmation de cette décision en avril 2006, personne n'aurait encore été relâché. Certains détenus souffriraient de sérieux problèmes de santé physique et mentale et la situation d'une jeune fille de 15 ans souffrant d'une maladie du cœur serait particulièrement préoccupante. Les prisonniers souffrant d'une maladie mettant leur vie en danger se seraient vu refuser un traitement médical. Suite à l'évasion de trois détenus le 26 avril 2006, tous les détenus auraient été privés de nourriture pendant 48 heures à titre de punition collective. Par ailleurs, dans la prison, qui serait infestée de moustiques, la privation de moustiquaire représente une forme de punition collective.

Communications reçues

28. Par lettre datée du 27 octobre 2006, le Gouvernement a répondu à l'appel urgent en date du 4 août 2006, envoyé conjointement avec la Présidente-Rapporteur de Groupe de travail sur la détention arbitraire et le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants. Le Gouvernement a indiqué que les personnes concernées par la lettre sont poursuivies pour des faits constitutifs d'association de malfaiteurs, pour faux et usage de faux, et pour commission d'actes non autorisés de nature à exposer leur pays à des représailles. Ces personnes ont été déférées au parquet de la République près le tribunal de Nouakchott par la police judiciaire entre le 9 mai et le 12 juillet 2005. Le parquet a saisi le juge d'instruction de la première chambre afin qu'il instruisse l'affaire et délivre un mandat de dépôt contre les inculpés. Au cours de l'instruction et sur demande des inculpés, la liberté provisoire leur a été accordée le 8 septembre 2005, mais le ministère public a immédiatement interjeté appel contre cette décision, au motif de la gravité des faits. La Cour d'appel a confirmé la décision du juge de première instance mais le ministère public a déposé un pourvoi en cassation. Entre-temps, et

suite au changement de Gouvernement intervenu le 3 août 2005, un grand remaniement a eu lieu au sein de la magistrature, qui a touché tous les degrés de juridiction. En juillet 2006, la Cour suprême a rendu une décision accordant la liberté provisoire à certains des prévenus et a renvoyé l'affaire devant la Cour pénale qui l'examinera dans un délai proche. Le Gouvernement a aussi indiqué que tous les détenus sont traités avec humanité et que leurs droits sont pleinement respectés. Aucune femme, quel que soit son âge, ne fait partie de ce groupe.

Observations

29. Le Rapporteur spécial remercie le Gouvernement pour sa réponse détaillée.

Mozambique

Communications sent

30. On 2 February 2006, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, regarding Shabang Maulid Abdul, Maringo Makuku and Ganyua Muimure, who were all being held in Maputo B.O. Prison. According to the information received, all three men had been held without charges since 2000. Reports alleged that the prisoners did not have access to sanitary facilities or running water and received only one meal per day consisting of dirty boiled beans and rice. It was reported that Mr. Makuku was only treated for endemic malaria after he fell into a coma, and even then the medication given had reportedly expired more than two years earlier. Information received also alleged that prison guards routinely assaulted, shot and killed prisoners in the prison yard. Concern was expressed for the physical and mental integrity of the above-named persons and further clarification of the alleged facts was requested.

Observations

31. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication.

Myanmar

Communications sent

32. On 27 January 2006, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights in Myanmar, concerning the arrest and imprisonment of the author Than Win. There was widespread concern that Than Win's imprisonment was politically motivated. It was also noted that of the 1,144 political prisoners understood to be incarcerated in Myanmar, a significant number were believed to be writers, editors, poets and journalists. Concern was expressed for the deteriorating ill health of Than Win, who has been suffering from diabetes and kidney complications, and other writers being held in captivity, as well as for the political motivation of their imprisonment.

Observations

33. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication.

Norway

Communications received

34. By letter dated 19 September 2006, the Government replied to the letter sent on 11 October 2005 by the Special Rapporteur. The Government stated that the concerns raised by the Special Rapporteur were important ones, and assured him that Norway attaches great importance to trade negotiations being conducted in a way that does not impair the ability of its trade partners to meet their human rights obligations relating to the right to health. Noting that access to medicines is an important issue in the free trade negotiations, the Government said that it respects the importance of the flexibilities in the Doha Declaration on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement and Public Health regarding patents on drugs. Furthermore, the Government emphasized that these concerns are reflected by the fact that Norway co-sponsored resolution 2005/23 of the Commission on Human Rights on the right to access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria. The Government also initiated and participated actively in the negotiations leading to the resolution on scaling-up treatment and care within a coordinated and comprehensive response to HIV/AIDS, adopted at the fifty-seventh World Health Assembly in May 2004. This deals with various issues related to the achievement of the highest attainable standard of treatment for HIV/AIDS, as stated in the Declaration of Commitment on HIV/AIDS adopted at the United Nations General Assembly Special Session on HIV/AIDS on 27 June 2001. The Government reiterated its deep commitment to the Doha Declaration on the TRIPS Agreement and Public Health, as well as to the subsequent decision taken by the World Trade Organization (WTO) permitting export of pharmaceutical products under compulsory licence to countries with insufficient pharmaceutical capacity. The Government emphasised that the right to health, including access to medicines, is fully integrated in all aspects of its policy, including trade policy, and that it is an important base for the mandate issued for such negotiations, which are scrutinised in order to ensure consistency in this respect with the obligations and policy outlined above.

Observations

35. The Special Rapporteur would like to thank the Government for its reply.

Peru

Communications sent

36. On 12 July 2006, the Special Rapporteur sent an urgent appeal concerning allegations that the Government of Peru had not given full effect to the views adopted by the Human Rights Committee in the case of *K.L. v Peru*. In that case, the complainant was not allowed to undergo a therapeutic abortion. Concern was expressed that the reported continuing uncertainty

surrounding the precise circumstances in which women are legally entitled to access therapeutic abortion was exposing some to potentially serious physical and mental health risks, if their pregnancy was carried to term. Such uncertainty was also contributing to a rise in unsafe and clandestine abortions, and consequently an increased likelihood of maternal mortality. Concern was also expressed about the extremely high maternal mortality rate in Peru, the second main cause of which was unsafe abortion.

Observations

37. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication.

Romania

Communications sent

38. On 5 October 2006, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to education concerning reports alleging discrimination and denial of medical care to Romanian children and young people living with HIV/AIDS. A report by the Special Rapporteur on his mission to Romania in 2004 (E/CN.4/2005/51/Add.4) noted that Romania has one of the highest prevalence rates of HIV/AIDS in Europe. According to information received, widespread discrimination against children and young people aged 15-19 years and infected with HIV/AIDS had prevented many from receiving adequate medical care, attending school or learning about their medical condition. It was alleged that doctors frequently declined to attend children and young people living with HIV/AIDS and harassed them in order to discourage them seeking care. Allegedly, problems were especially acute for children and young people needing emergency care, as well as for those with mental disabilities. Concern was also expressed about alleged breaches of confidentiality by medical personnel, school officials and government workers that posed potentially severe consequences to these children and young people, and members of their families. While Romania has national laws prohibiting discrimination against people living with HIV/AIDS, information received suggested that these laws were rarely enforced by authorities.

Observations

39. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication.

Slovenia

Communications sent

40. On 20 April 2006, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on the right to education, and the Independent expert on minority issues, concerning the unresolved status of individuals removed from the Slovenian registry of permanent residents in 1992, who are often referred to as "erased". The statelessness of the approximately 6,000 people who continued to live in Slovenia without citizenship or a

permanent residence permit seriously affected their ability to exercise various human rights. Affected individuals had significantly limited or no access to social services including comprehensive health care and pension entitlements. Children removed from the registry had also lost their access to secondary education. It was also alleged that many “erased” persons either lost their job or could no longer find legal employment. Concern was expressed about the ongoing negative and reportedly disproportionate effects of “erasure” upon Roma minority communities, particularly with regards to housing conditions and access to employment, health and education.

Communications received

41. By letter dated 26 June 2006, the Government replied to the communication sent on 20 April 2006. The Government explained that the figure of 6,000 stateless people living in Slovenia is incorrect - rather, since Slovenia gained independence 4,205 people remain undocumented or stateless. Further, following a ruling of the Constitutional Court of the Republic of Slovenia, it was again possible for affected persons to apply for permanent residence permits. However, by spring 2006, only 124 persons had regulated their status. A draft Constitutional Act would also set the conditions for acquiring permanent residence permits with retroactive effect for citizens of other successor states to the former Socialist Federal Republic of Yugoslavia, who had permanent residence in Slovenia on 23 December 1990. The Government did not explain the position of the children of “erased” persons born after this date. While not disputing that affected individuals had significantly limited or no access to a wide range of health services, the Government suggested that this was because these people had no health insurance. The Government emphasised that they had access to emergency health services, paid for by the Ministry of Health. In this respect, 31 claims for damages have been filed by affected persons. The Government explained that a Constitutional Act was being adopted to regulate the payment of compensation.

Observations

42. The Special Rapporteur thanks the Government for its detailed reply.

Thailand

Communications received

43. By letter dated 6 June 2006, the Government replied to the letter sent on 11 October 2005 by the Special Rapporteur. The Government stated that the Ministry of Commerce has confirmed that the Thai position for the bilateral free trade negotiations with the member states of EFTA was prepared in consultation with both public and private stakeholders. Since the beginning of the negotiation process they had incorporated into their negotiations the views of the public expressed through a dedicated website, as well as the opinions received from the media, publications and relevant seminars. It was further reported that the Thai delegation included relevant representatives from the Ministry of Public Health. The Government stated that the free trade negotiations with EFTA members was aimed at promoting the highest interest of the people of Thailand as a whole with regard to each item or subject matter.

Observations

44. The Special Rapporteur would like to thank the Government for its reply.

Turkmenistan

Communications sent

45. On 3 May 2006, the Special Rapporteur sent an urgent appeal concerning the allegedly grave deterioration of the health care system in Turkmenistan, which threatened access to health care for many people. According to information received, the failure to report official data on health to United Nations organizations since 1998 had made it difficult both to determine the overall health of the population and to assess health-care provision in Turkmenistan. This reported failure also made it difficult to monitor the progressive realisation of the right to health according to articles 2 and 12 of the International Covenant on Economic, Social and Cultural Rights, to which Turkmenistan is a party. Specific allegations pertained to health-care reforms undertaken in 2004 - 05, including the dismissal of 15,000 health-care workers and their replacement with untrained military conscripts. This was followed by the closure of all hospitals outside Ashgabat, with the exception of one diagnostic centre in each region. Information received also alleged that the access of the population to health care was further hindered by deteriorating infrastructure, a lack of essential medicines and supplies, and the introduction of user fees. It was claimed that there was an unofficial ban on diagnosing infectious diseases and that a plague outbreak in 2004 was denied by the Government. Concerns were raised about access to potable water and sanitation, and increases in intravenous drug use, sex work and sexually transmitted infections that evidenced the potential for an HIV/AIDS epidemic.

46. On 5 July 2006, the Special Rapporteur sent an urgent appeal requesting further clarification of certain allegations made in relation to recent reforms to the health-care system in Turkmenistan.

Observations

47. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communications.

United States of America

Communications sent

48. On 28 February 2006, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the right to food and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, concerning allegations that the lands of the indigenous peoples of northern California, including the Pit River tribe, and the indigenous peoples of Alaska, and particularly the Yupik community of Gambell, St. Lawrence Island, had been polluted to such an extent that the usual access to food and livelihood for these communities, namely their traditional fishing, was being threatened. Reports claimed that abandoned gold and mercury mines and gold mining activity had polluted rivers and waterways in northern California with an estimated 1.3-3.6 million litres of mercury released into the

environment. The toxic substances had allegedly entered the food chain, affecting the health of the Pit River Tribe and many other tribes in northern California. Further, beyond affecting the livelihood and health of the tribes, it was claimed that the spiritual and cultural connection of fishing to the identity of these peoples had also been negatively affected. Information received alleged that industrial mining and oil corporations had contaminated the traditional lands, waters and food of the indigenous peoples of Alaska, severely affecting their health. For example, it was alleged that indigenous children in the Yukon River delta had ten times the national rate for hospitalization for respiratory infections in their first year, and that cancer among indigenous peoples in Alaska had been rising at a rate 30 per cent higher than for other communities. Concern was expressed regarding claims that the response of the Government to these issues had been inadequate.

49. On 9 October 2006, the Special Rapporteur sent an urgent appeal concerning Chen Goofu, a Chinese citizen detained in the Arthur Kill Correctional Facility in New York. According to the allegations received, Mr Chen had been incarcerated since 1995 and was in dire need of a liver transplant after allegedly being infected with Hepatitis B in 1997, while serving his sentence. It was further alleged that after an initial allergic reaction to the drug Interferon, the Arthur Kill Correctional Facility negligently denied Mr Chen medical treatment between 1997 and June 2005. In July 2006, the New York State Commission of Correction informed Mr Chen that the state would not allow a liver transplant as, “according to national standards, persons with illegal alien status are generally not eligible for organ transplant”. Mr. Chen was reportedly in stage four of cirrhosis of the liver, and was expected to die without a transplant.

Observations

50. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communications.

Other actors

The Global Fund to Fight AIDS, Tuberculosis and Malaria

Communications sent

51. On 2 February 2006, the Special Rapporteur sent a letter concerning the decision of the Global Fund to terminate the grant awarded to Myanmar to combat AIDS, malaria and tuberculosis. The Special Rapporteur reiterated the concern expressed in a previous urgent appeal, dated 15 November 2005, that the decision to terminate the grants would have a serious impact on the enjoyment of the right to the highest attainable standard of health in Myanmar, especially for persons most vulnerable to HIV, tuberculosis and malaria.

Communications received

52. By letter dated 17 February 2006, the Global Fund replied to the communication sent on 15 November 2005. The Global Fund stated that the decision to terminate the grant was made by the Executive Director of the Global Fund, Dr Richard Feachem, based upon

recommendations of the Chief of Operations. Dr Feachem stated that the provision of grants to Myanmar was contingent upon “securing access to project sites”, and that the Government of Myanmar had issued a letter on 14 July 2005 that tightened access restrictions for all international non-governmental organizations (NGOs) and United Nations agencies. It was explained that the Global Fund took the view that it was unlikely that a suspension of the grant would bring the changes required by the Fund under its grant agreement to continue its programme activities. The Fund accordingly terminated the grant. Dr Feachem explained that no appeal procedures are available in the case of a termination.

Communications sent

53. On 20 April 2006, the Special Rapporteur sent a letter seeking further clarification of the assertions made by the Global Fund in its letter dated 17 February 2006. The Special Rapporteur asked whether, “securing access to project sites” was a key requirement of the three programme grant agreements signed between the Global Fund and the principal recipient (the United Nations Development Programme) on 13 August 2004 and 14 January 2005. It was further noted that according to information received, the restricted travel conditions (which had triggered the termination) were only temporary. The Global Fund was also asked whether it had informed the Government of Myanmar that it was considering terminating the grants prior to actual termination, and whether the Government was provided with an opportunity to respond to the Fund on the issue of possible termination. In accordance with the general termination clause provided under article 21 of the agreements, it was further asked whether a 60 days written notice was served by the Fund to the principal recipient prior to the termination of the grant.

54. On 31 May 2006, the Special Rapporteur again sent a letter requesting further clarification of the letter sent by the Global Fund dated 17 February 2006.

Observations

55. The Special Rapporteur thanks the Global Fund for its response, however regrets that at the time of the finalization of this report, the Global Fund has not transmitted a reply to his last two communications.

United Nations Interim Administrative Mission in Kosovo

Communications sent

56. On 27 March 2006, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the adverse effects of illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, the Representative of the Secretary-General on the human rights of internally displaced persons (IDPs), and the Independent expert on minority issues, concerning the situation of internally displaced persons belonging to the Roma, Ashkali and Egyptian minority groups affected by severe lead contamination in the Zhitkovac, Česmin Lug and Kablare camps located near Mitrovica, northern Kosovo. According to information received, a lack of trust by affected persons in the United Nations Interim Mission in Kosovo (UNMIK) had led to their reluctance to voluntarily

relocate to Camp Osterode. Due to its proximity to the contaminated areas, this camp had been designated as only a temporary measure to resolve the health crisis. It was understood that affected persons doubted whether the new facilities would be substantially safer, and whether they would in fact constitute a temporary measure pending provision of a longer-term durable solution. Concern was expressed about reported threats against persons belonging to the minorities in question and further information was requested regarding the efforts that UNMIK had taken to resolve this long-term problem and ensure a permanent return of IDPs to their homes.

Communications received

57. By letter dated 11 April 2006, UNMIK replied to the communication sent on 27 March 2006. UNMIK informed the Special Rapporteur that, in concert with other agencies, a comprehensive plan had been developed to assist the affected families living in the IDP camps. UNMIK noted that over 50 per cent of the total population of the camps in question had been voluntarily relocated to Camp Osterode, and further stated that treatment for children suffering from high lead levels in the blood would begin within the week. UNMIK also committed to complete the construction of a permanent resettlement camp for the Roma people within 18 months.

Observations

58. The Special Rapporteur thanks UNMIK for its reply.
