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

Torture and other cruel, inhuman or degrading treatment or punishment

Report of the Special Rapporteur, Theo van Boven

Addendum

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

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

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Introduction

1. This addendum to the report of the Special Rapporteur contains, on a country-by-country basis, summaries of general allegations and individual cases, as well as of urgent appeals, and government replies. The Special Rapporteur would like to recall that in transmitting allegations and urgent appeals to Governments, he does not make any judgement concerning the merits of the cases, nor does he support the opinion and activities of the persons on behalf of whom he intervenes. The prohibition of torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right, and every human being is legally and morally entitled to protection. When the Special Rapporteur receives reliable information that gives grounds to fear that a person may be at risk of torture or other forms of ill-treatment, he may transmit an urgent appeal to the Government concerned. The urgent appeals sent by the Special Rapporteur have a humanitarian and preventive purpose, and do not require the exhaustion of domestic remedies. The letters sent to Governments contain summaries of individual cases of torture and, where applicable, include general references to the phenomenon of torture. In these letters, the Special Rapporteur requests the Government concerned to clarify the substance of the allegations and urges it to take steps to investigate them, prosecute and impose appropriate sanctions on any persons guilty of torture.

2. Observations by the Special Rapporteur have also been included where applicable. Such observations, which sometimes note the most recent findings of other supervisory bodies, in particular United Nations treaty bodies, are usually made when the information suggests that there may be a problem extending beyond the exceptional or isolated incident. The fact that there is no such observation in respect of a particular country merely reflects the state of information brought to the attention of the mandate, and does not necessarily mean that there is no substantial problem in that country.

3. During the period under review, i.e. from 15 December 2002 to 15 December 2003, the Special Rapporteur sent 154 letters to 76 countries. The Special Rapporteur also sent 71 letters reminding Governments of a number of cases that had been transmitted in previous years, and 369 urgent appeals to 80 Governments on behalf of individuals with regard to whom serious fears had been expressed that they might be subjected to torture and other forms of ill-treatment.

4. Owing to restrictions on the length of documents, the Special Rapporteur has been obliged to reduce considerably details of communications sent and received. As a result, requests from Governments to publish their replies in their totality could not be acceded to. Information concerning the follow-up by Governments to the country-visit recommendations of the Special Rapporteur is included in document E/CN.4/2004/56/Add.3.

GENERAL REMARKS

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

6. The Special Rapporteur notes that Government responses frequently point to the absence of formal complaints as the reason for not initiating investigations, and to legal provisions for the prohibition of torture as guaranteeing protection. He emphasizes that even in the absence of formal complaints, Governments have the obligation to thoroughly investigate all torture cases. Moreover, guarantees of the prohibition of torture laid down in constitutional or legislative provisions without mechanisms to effectively monitor their application—including appropriate mechanisms to receive complaints of torture or ill-treatment (e.g. child-friendly, gender-sensitive), conduct investigations and carry out prosecutions—do not on their own ensure protection.

7. In relation to cases of torture and ill-treatment, the Special Rapporteur would like to draw the attention of Governments to two issues of particular importance and concern. With reference to Commission on Human Rights resolution 2003/32 (para. 14), he reminds all States that detention of persons in an undisclosed location, as well as prolonged incommunicado detention, may facilitate the perpetration of torture and can itself constitute a form of cruel, inhuman or degrading treatment or even torture.

8. With reference to article 37 of the Convention on the Rights of the Child and Commission on Human Rights resolution 2003/32 (para. 5), the Special Rapporteur reminds Governments that corporal punishment, including of children, can amount to cruel, inhuman or degrading punishment or even to torture. Moreover, lengthy pre-trial detention, the use of detention other than as a measure of last resort, and the detention of children together with adults, may facilitate the perpetration of torture or ill-treatment against children.

SUMMARY OF CASES TRANSMITTED AND REPLIES RECEIVED

Albania

9. Par une lettre datée du 4 juin 2003, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants, auxquels le gouvernement a répondu par une lettre datée du 3 novembre 2003.

10. **Sabaudin Cela** aurait été arrêté le 12 février 2002 et emmené au poste de police de Vlora. Lors de son interrogatoire, il aurait été frappé sur la paume des mains et des pieds par le chef de la police judiciaire et trois autres officiers. Il aurait finalement été relâché sans avoir été inculpé. Le 5 mars 2002, il aurait à nouveau été arrêté par le même officier qui l'aurait forcé, un pistolet sur la tempe, à entrer dans une voiture sans plaque d'immatriculation. Il aurait eu le visage couvert durant la durée du trajet jusqu'à une banlieue de Vlora. Là, il aurait été frappé avec la crosse d'une arme et des bâtons. Il aurait été plus tard abandonné inconscient près de son domicile.

11. Le gouvernement a informé que, suite à une plainte portée contre le chef du bureau régional de la lutte anticrime, le bureau du procureur de Vlora avait initié une procédure pénale et ledit chef avait été arrêté.

12. **Arjan Seiti** aurait été arrêté dans un bar le 2 novembre 2002 par des policiers du commissariat n° 3 de Tirana suite à une dispute qu'il aurait eue avec le

garde de sécurité de ce bar qui serait également un policier. Ce dernier aurait appelé ses collègues en renfort. Au commissariat, Arjan Seiti aurait été violemment battu. Un certificat médical émis le 3 novembre 2002 confirmerait ces allégations.

13. Le gouvernement a clarifié qu'Arjan Seiti, qui était en état d'ébriété lors de l'incident et qui aurait importuné une femme, se serait refusé à accompagner les agents de police au commissariat et aurait donné un coup de poing à deux d'entre eux. Il aurait donc été amené par la force au poste de police. Les deux agents de police frappés auraient porté plainte contre lui. Quelques jours plus tard, Arjan Seiti aurait à son tour porté plainte contre ces deux agents, et une procédure pénale pour avoir commis des actions arbitraires aurait été initiée contre ceux-ci par le bureau du procureur. Le gouvernement a également informé qu'un des agents impliqués avait été renvoyé du poste de police pour transgressions disciplinaires graves.

14. **Gazment Tahirllari** aurait été arrêté le 3 janvier 2003 par des policiers de Tirana suite à une plainte déposée par sa femme pour violences conjugales. Il aurait refusé de suivre les policiers et ceux-ci l'auraient alors frappé violemment, en particulier sur la tête. Il aurait perdu connaissance. Il aurait alors été emmené dans un véhicule de la police à un hôpital. Il y serait décédé peu de temps après son admission. Malgré le fait que les blessures occasionnées par les coups étaient visibles, en particulier sur le crâne, le visage et les membres, le premier certificat d'autopsie mentionnerait un usage excessif d'alcool et un traumatisme non identifié comme causes de la mort. Sa famille n'aurait pu voir le corps qu'un jour après son décès, lorsque les forces de police auraient finalement quitté l'hôpital.

15. Le gouvernement a clarifié que Gazment Tahirllari avait montré de la résistance alors qu'il était amené au poste de police de Korça. Les agents de police avaient remarqué qu'il ne se sentait pas bien et l'avaient emmené à l'hôpital civil de Korça, où il décéda le jour suivant. Immédiatement après cet incident, trois agents furent licenciés par le Département de la police de Korça. Le gouvernement a également informé que le tribunal de première instance de Korça a condamné un des agents à 16 ans de prison, un autre à trois ans de prison, un troisième à cinq mois de prison et deux autres à quatre mois de prison.

16. **Lorenc Callo** aurait reçu des coups de poing et de pied de la part d'un agent de police de la ville de Pogradec en mars 2001. Ce dernier l'aurait soupçonné d'avoir tiré un coup de feu. Il aurait également été frappé avec un appareil radio, ce qui lui aurait provoqué une blessure à l'œil gauche. Des témoins ainsi qu'un examen médico-légal auraient confirmé ces allégations. L'ombudsman aurait recommandé le renvoi de l'agent de police concerné.

17. Le gouvernement a informé qu'une procédure pénale contre un capitaine a été initiée par le bureau du procureur de Korça en avril 2001. La procédure avait été poursuivie par le tribunal militaire de Korça qui avait déclaré ledit capitaine coupable d'abus de pouvoir. Celui-ci avait été condamné à une amende.

18. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 2001 et 1999, au sujet desquels il n'avait pas reçu de réponse.

Observations

19. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Elimination of Racial Discrimination (CERD/C/63/CO/1, para. 18) about information that members of the Roma minority, especially the young, are generally regarded with suspicion and subjected to ill-treatment and the improper use of force by police officers.

Algeria

20. Par une lettre datée du 24 septembre 2003, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a informé le gouvernement qu'il avait reçu des renseignements selon lesquels près de 400 personnes qui se seraient rassemblées le 26 mars 2003 à Alger en soutien aux familles de personnes disparues auraient été violemment dispersées par les forces de l'ordre. Des mères de disparus, parmi lesquelles des femmes âgées, auraient été maltraitées par la police et certaines d'entre elles se seraient évanouies. Une journaliste de nationalité hollandaise aurait été malmenée, et ses films confisqués. Cinq personnes auraient été arrêtées et gardées dans les fourgons de la police avant d'être relâchées peu après. Le rassemblement aurait été bloqué devant le siège de la Commission nationale consultative de promotion et de protection des droits de l'homme (CNCPPDH), et les participants empêchés de se rendre devant la présidence de la République. Plus tard, des agents de la compagnie républicaine de sécurité auraient assailli les familles des personnes disparues alors même qu'elles s'apprêtaient à rejoindre le siège de leur association. Des faits similaires se seraient déjà produits dans le passé. En particulier, le 6 novembre 2002, une trentaine de membres de familles de disparus s'étaient réunis devant la CNCPPDH et se seraient été ensuite dirigés vers la présidence de la République. Les familles auraient alors été bloquées dans leur marche par les forces de l'ordre. Certaines personnes auraient été par la suite bousculées et battues. Tout le quartier aurait ensuite été quadrillé par les services de sécurité. Ce rassemblement du 6 novembre aurait fait suite aux déclarations du président de la CNCPPDH, qui se serait prononcé sur la manière de régler le problème des disparus.

21. Par une lettre datée du 30 septembre 2003, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements selon lesquels **Tahar Façouli** aurait été arrêté à Surcouf aux alentours du 10 avril 2002 par des agents en civil de la sécurité militaire, et emmené dans une base à proximité d'Alger où il serait resté en détention pendant une semaine avant d'être remis en liberté. Au cours de sa détention, les agents de la sécurité militaire auraient tenté de lui extorquer des informations sur ses relations avec Rachid Mesli, un avocat algérien défenseur des droits humains vivant en exil en Suisse. Tahar Façouli aurait été battu à plusieurs reprises et maintenu dans un bain d'eau froide pendant quatre jours consécutifs, le corps immobilisé de manière telle qu'il n'aurait été en mesure de ne sortir que la tête de l'eau.

22. Par une lettre datée du 6 novembre 2003, le gouvernement a signalé que Tahar Façouli n'avait pas saisi les autorités judiciaires concernant des allégations de torture ni déposé de plainte devant la justice. Dans ces conditions, les autorités judiciaires n'étaient pas en mesure de se prononcer sur le fondement de telles allégations.

23. Par une lettre datée du 15 octobre 2003, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements selon lesquels des actes qui relèvent de son mandat auraient été perpétrés par des agents de la Sécurité militaire dans des centres de l'armée, notamment ceux de Ben Aknoun à Alger et de Haouch Chnou à Blida. Ces agents auraient opéré en civil, n'auraient présenté aucun mandat d'arrêt et auraient transporté des personnes les yeux bandés et recroquevillées à l'arrière de véhicules sans plaques d'immatriculation. Sur les procès-verbaux d'interrogatoire, seuls auraient été indiqués les prénoms des agents de la sécurité militaire ayant participé à l'interrogatoire. Les personnes auraient été forcées de signer des déclarations qu'elles n'auraient pas lues et les condamnations souvent auraient reposé largement, voire exclusivement sur les déclarations obtenues sous la contrainte pendant la détention.

24. Par cette même lettre, le Rapporteur spécial a informé le gouvernement que, dans ce contexte, il avait reçu des renseignements sur les cas individuels suivants, auxquels le gouvernement a répondu par une lettre datée du 19 novembre 2003.

25. **Mohamed Belkheir**, présumé sympathisant du Front des forces socialistes (FFS), aurait été arrêté le 16 mars 2003 par des supposés membres des forces de sécurité en civil, transféré dans une voiture sans plaque d'immatriculation au centre de détention de la Sécurité militaire de Ben Aknoun, à Alger, et enfermé dans une cellule. Il y aurait été allongé sur une table en bois, ligoté et soumis au supplice dit du «chiffon», méthode qui consisterait à attacher la victime et à lui enfoncer un morceau de tissu dans la bouche, puis à la forcer à avaler une grande quantité d'eau sale, d'urine ou de produit détersif versée à travers ce tissu. Des coups de bâton et des décharges électriques lui auraient également été infligés afin qu'il donne des noms de membres de groupes armés avec qui on l'aurait soupçonné d'être en contact. Pendant les dix jours de sa garde à vue, il aurait reçu des décharges électriques sur les ongles et les parties génitales. En outre, on aurait menacé d'arrêter sa femme et de la violer en sa présence. Le 25 mars 2003, Mohamed Belkheir aurait été contraint de signer un procès-verbal sans être autorisé à le lire. Présenté le lendemain à un juge d'instruction, il aurait été inculpé d'appartenance à un groupe terroriste et de non-dénonciation de meurtriers, avant d'être placé en détention provisoire. Un certificat médical ferait état de contusions sur différentes parties du corps sans indication de l'origine probable ni de la date des lésions. Une requête en vue d'obtenir un examen médical indépendant aurait été rejetée par les autorités judiciaires et aucune enquête ne semblerait avoir été effectuée sur les allégations de torture formulées par Mohamed Belkheir.

26. Le gouvernement a informé qu'après son audition devant le procureur de la République d'Alger, le 26 mars 2003, Mohamed Belkheir avait été placé en détention provisoire. Le gouvernement a également informé qu'une information judiciaire pour appartenance à une organisation terroriste se poursuivait à ce jour. D'après le gouvernement, le détenu n'avait pas fait état d'actes de torture devant les autorités judiciaires et aucune plainte n'avait été déposée dans ce sens. Le gouvernement a signalé que Mohamed Belkheir avait déjà été condamné pour les mêmes faits en 1992 par le tribunal criminel à quatre ans d'emprisonnement.

27. **Ahmed Ouali**, un ancien militant du Front islamique du salut (FIS), aurait été arrêté le 12 janvier 2002 en même temps que son frère **Fouad Ouali** et son fils de 16 ans, à leur domicile dans la banlieue d'Alger. Ils auraient été conduits par des membres des forces de sécurité en civil au centre de détention de la Sécurité militaire

de Ben Aknoun à Alger, où ils seraient restés neuf jours avant d'être présentés à un magistrat. Au cours de sa détention, Ahmed Ouali aurait été soumis à des décharges électriques, suspendu au plafond et soumis au supplice dit du «chiffon». Les yeux bandés, il aurait été contraint par les policiers à signer un procès-verbal dans lequel il avouerait son appartenance à un groupe armé. Il aurait dénoncé les actes de torture qu'il aurait subis au cours de sa détention lors de sa comparution devant le magistrat, et montré les traces laissées sur son corps par les décharges électriques. Fouad Ouali aurait subi les mêmes sévices que son frère et le mineur aurait été battu. Ahmed et Fouad Ouali auraient été inculpés, le 21 janvier 2002, d'appartenance à une organisation terroriste et seraient toujours en attente de leur procès. Le mineur aurait quant à lui été relâché sans inculpation. Ahmed aurait été transféré à la prison d'El Harrach (Alger), et Fouad aurait bénéficié d'une mise en liberté provisoire. Pendant les neuf jours qu'ils auraient passés à Ben Aknoun, aucun de leurs proches n'aurait été informé du lieu où ils se trouvaient. Leurs allégations de torture n'auraient apparemment fait l'objet d'aucune enquête.

28. Le gouvernement a informé qu'après son audition devant le procureur de la République d'Alger, le 21 janvier 2003, Ahmed Ouali avait été placé en détention provisoire. Une information judiciaire pour appartenance à une organisation terroriste avait été ouverte. D'après le gouvernement, le détenu n'a pas fait état d'actes de torture devant les autorités judiciaires et aucune plainte n'a été déposée dans ce sens.

29. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 2002, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

30. Le 2 octobre 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, concernant **Salah-Eddine Sidhoum**, médecin et défenseur des droits de l'homme qui se serait rendu aux autorités algériennes le 29 septembre 2003 après neuf années passées dans la clandestinité. Après que le procureur lui aurait signifié qu'il serait à nouveau entendu, le docteur Sidhoum aurait été arrêté et conduit à la prison de Serkadji. Il aurait entamé une grève de la faim pour protester contre ses conditions de détention et aurait été placé, par mesure disciplinaire, en isolement dans une cellule de deux mètres cube, dans laquelle la lumière serait allumée en permanence.

31. Par deux lettres datées du 14 et du 21 octobre 2003, le gouvernement a répondu que Salah-Eddine Sidhoum avait fait l'objet d'une information judiciaire dans le cadre d'une affaire de terrorisme. Le 23 juillet 1996, la cour d'Alger avait rendu un arrêt de mise en accusation, des chefs d'appartenance à une organisation terroriste, ainsi qu'apologie et encouragement d'actes terroristes. Le 10 mars 1997, le tribunal criminel d'Alger avait rendu un jugement par contumace, par lequel Salah-Eddine Sidhoum avait été condamné à 20 ans de prison. À partir du 29 septembre 2003, date à laquelle il s'était livré aux autorités judiciaires, il avait été placé en détention provisoire, en l'attente d'un nouveau jugement. Le 16 octobre 2003, le tribunal criminel d'Alger avait prononcé son acquittement et Salah-Eddine Sidhoum avait été mis en liberté. Durant sa détention et suite à sa décision d'entamer

une grève de la faim, il avait été placé à l'infirmerie où, d'après le gouvernement, il avait bénéficié d'un suivi médical spécial et de la visite quotidienne de sa famille et de ses avocats. Il aurait fait une grève de la faim suite au refus de l'administration pénitentiaire de ne pas le placer au régime général de détention tel que Salah-Eddine Sidhoum l'avait demandé en alléguant un statut de détenu d'opinion.

Observations

32. Le Rapporteur spécial regrette que le gouvernement ne lui a pas encore transmis une invitation pour visiter l'Algérie. Une demande en ce sens avait été originellement faite en 1997. Par sa lettre datée du 16 octobre 2003, le Rapporteur spécial a réitéré son intérêt pour visiter le pays.

Angola

33. By letter dated 4 June 2003, the Special Rapporteur advised the Government that he had received information on the following individual cases.

34. **Joaquim Bumba**, the pre-deacon of the Catholic Church, was reportedly shot in his right leg by police officers from Tando-Zinze commune on 24 December 2000, while he was travelling in a car accompanied by some church workers. It is alleged that the passengers were accused of collaborating with the Front for the Liberation of the Enclave of Cabinda (FLEC).

35. **Bernardo Buela** was reportedly arrested by soldiers from the Angolan Armed Forces (FAA) on 13 May 2002 during a raid against Chipito, a community of Liambo village. His legs were reportedly tied before he was suspended upside down from a tree. He was allegedly interrogated and stabbed all over his body while in this position. He was later reportedly released.

36. **Francisco Maneta** and **Cosme Brás** were reportedly arrested by FAA soldiers in their respective homes in Tando Zinze commune on 22 June 2002. It is alleged that they were taken to the barracks of the Tando-Zinze Battalion, where Francisco Maneta was reportedly forced to sit down on the ground with his legs stretched while soldiers allegedly severely beat him on his legs with a heavy wooden stick. As a result, his legs have allegedly been paralyzed since then. Cosme Brás was allegedly subjected to ill-treatment as well.

37. **Residents of Champuto-Rico** were reportedly subjected to reprisals on 22 July 2002, after an alleged guerrilla attack at the nearby Rio Lulondo. Some of them were reportedly taken to the barracks and subjected to ill-treatment. As a result, **António Teba** reportedly sustained a fractured leg, **Vicente Brás**, a fractured pelvis, and **Paulo Tembo**, a broken arm.

38. **Alexandre Sumbo** and his brother **Manuel Barros**, as well as their friend, **Luís Fernando**, were reportedly severely beaten by FAA elements from the Massabi Military Unit on 6 September 2002 in Mbamanga village, Cacongo. They were allegedly suspected of collaboration with the FLEC.

39. **José Imba** was reportedly dragged outside his house, in Terra Nova village, by FAA soldiers who allegedly fired six shots into his legs before abandoning him.

The incident allegedly took place on 12 September 2002, when FAA soldiers allegedly surrounded the village and opened fire on its residents, wounding 12 people, in reprisal for an alleged attack by FLEC in the vicinity.

40. **António Tebe** was reportedly arrested and interrogated by FAA soldiers on 23 September 2002 in the village of Champuto-Rico, and after FLEC members had allegedly carried out an attack against a FAA detachment that was providing the security for a visit by a governor to the village of Subantando. He was reportedly subjected to beating and other forms of ill-treatment. He was allegedly shot in the legs after he attempted to escape. He reportedly did not receive any assistance from the soldiers, who allegedly abandoned him. His legs have reportedly been paralyzed since then.

41. **Joana Nzuzi (f)** and **five other women farmers** were reportedly beaten on 17 October 2002 in the military unit stationed on the Ganda-Cango Ranch, after they had allegedly gone to the fields without military authorization.

42. **Alexandre Nhati**, a suspected member of FLEC-FAC, was reportedly detained on 13 November 2002 in Cabinda by members of the 11th unit of the Rapid Intervention Police (Ninjas) and accused of having participated in a subversive meeting. He was reportedly beaten with sticks, threatened with guns pointed at his head, forced to stand with his arms shackled around a thick tree trunk and not given food or water for two days. He was reportedly released on 15 November 2002.

43. **Joaquim Tiemuna** was reportedly beaten on 14 November 2002 at Ganda Cango FAA checkpoint, when he was allegedly transporting civilians.

44. **António Fortuna**, a resident of Amílcar Cabral, Cabinda, was reportedly severely beaten at his home on 23 November 2002 by agents of the Rapid Intervention Police (Ninjas).

45. **António Francisco**, aged 18, and **António Lelo** were reportedly beaten and subjected to other forms of ill-treatment on 2 December 2002 by soldiers from the FAA stationed in Mazengo plains. They were reportedly beaten in front of the population of Tando-Zinze commune in order to obtain information about the FLEC.

46. By letter dated 4 June 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following individual cases.

47. **Vaba**, a man from Mbamanga village, by the River Chiloango, was reportedly detained by FAA soldiers on 27 August 2002. He was allegedly accused of spying for the FLEC. It is reported that he was thrown into a river after having been allegedly beaten and tied to a stone.

48. **Celestino Manduvo**, **Celestino Coelho**, **Simão Carlos** and **Tiago Macosso** were reportedly arrested by a military patrol on 19 September 2002 and taken to Piandinge village and subsequently to the Necuto Garrison. Tiago Macosso was reportedly subjected to "necklacing", i.e. a burning tyre was placed around his neck, and then shot dead. The three other detainees were allegedly visited by traditional

authorities called by the commander of the military unit on 4 October 2002. They were reportedly in a poor state and showed visible marks of torture. As a result of these events, the villages of Piandinge, Tando Caio, Caio Li Ntumbi I, Conde Li Ntumbi ad Tando Ibulassi were reportedly depopulated and the communities displaced to Piandinge cut-off in inhuman conditions.

49. **João Rodrigues Lourenço**, a church worker, was reportedly severely beaten on 22 November 2002 in Cochiloango, municipal district of Cacongo, by elements of the military police. His relatives reportedly found him dead three days later in a forest close to their village.

50. By letter dated 4 June 2003, sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information according to which **Rafael Gime**, the alleged leader of a planned demonstration of demobilized soldiers, was reportedly severely beaten by members of the Rapid Intervention Police (Ninjas) on 12 March 2001.

51. By letter dated 11 July 2003, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he had received information on the following individual cases.

52. **Joana Ndobe Fita Padi** (f), a 20-year-old resident of Fortaleza, was reportedly approached at her home by armed soldiers on 19 June 2001 and taken to one of the units of the military brigade deployed in N'tó, on the way to the border at Yema (Democratic Republic of the Congo). She was reportedly raped by several soldiers before she was released on the following day.

53. **Inês Lelo Tiago** was reportedly raped by an FAA soldier on 8 May 2002, when she was on her way to the Catholic Mission of Cabinda.

54. **Maria da Graça Fonseca Isabel** was reportedly raped on 2 October 2002 by three soldiers from the 20th Troop Battalion detached to the N'tó unit, in the village of Subantando. Her mother, **Isabel Suca**, was reportedly severely beaten when she attempted to protect her daughter.

55. **A 13-year-old girl**, was reportedly raped on 3 November 2002 on the banks of the River Chibaca by three soldiers from the unit stationed in Ganda Cango. It was alleged that, upon protesting to the military command for this assault, her mother was accused of belonging to the FLEC.

56. **T.P.**, aged 16, was reportedly raped by 15 military officers and allegedly had her genital organs mutilated on 8 November 2002 at Ganda Cango village, municipality of Belize.

57. **Maria Luendo** and **Marta Conde** were reportedly raped by several FAA soldiers on 28 November 2002 on the main road of Piandinge, Necuto commune, in the presence of their children. Maria Luendo allegedly underwent surgery due to the mutilation of her genital organs.

58. By letter dated 23 July 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he had received information according to which **A.T.L.**, also known as Arlete, a 16-year-old woman from Cata-Chivava village, Necuto commune, was reportedly shot dead by an FAA soldier on 20 October 2002, when she was allegedly trying to escape rape.

Urgent appeals

59. On 18 December 2002, the Special Rapporteur sent an urgent appeal concerning the alleged incommunicado detention of **Buingi**, a catechist in the Roman Catholic Church, who allegedly disappeared from Pepela village, Cabinda, on 12 November 2002, as well as **Bento Banto** and his nephew **Daniel**, who allegedly disappeared from Susso village on 15 November 2002. The three men were allegedly arrested by FAA soldiers. Concern was also expressed over information according to which **Estevão Buanje** and **António Mambo Tigre** were arrested in Njaja village on 18 November 2002 and **Lourenço Gomes Pitra** in Nazando village on 21 November 2002. The three were allegedly taken to the FAA base in Tando Zinze. **Ivo Macaia**, an oil company storekeeper, was reportedly arrested at his home in Cabinda city by plain-clothes police officers on 30 November 2002. He was reportedly taken to the headquarters of the Rapid Intervention Police but his whereabouts remain unknown. **João Gime**, a worker for the same oil company, was reportedly arrested without a warrant by the police on 9 December 2002 and his whereabouts remain unknown. The detainees were reportedly suspected of supporting armed factions of the FLEC.

Argentina

60. Por carta de fecha 17 de septiembre de 2003, el Relator Especial notificó al Gobierno que recibió información sobre los casos individuales siguientes.

61. **F. B.**, de 16 años de edad, habría fallecido en Don Torcuato mientras intentaba robar un automóvil el 1.º de noviembre de 2000. Algunos testigos habrían presenciado cómo recibió cuatro tiros de bala mientras se encontraba trepado a un árbol. El 28 de febrero de 2000, F. B. habría denunciado ante un juez que había sido golpeado en la comisaría de Don Torcuato. Se alega que, debido a que la citación judicial oportuna debería haberse practicado por intermediación de la comisaría denunciada, la notificación no se habría hecho efectiva. Durante el funeral de F. B., un grupo de policías habría intimidado a los familiares con armas de fuego. Los familiares habrían denunciado los hechos a finales de enero de 2001, sin recibir respuesta de las autoridades.

62. **Javier Villanueva** habría sido detenido el 24 de octubre de 2001 y acusado de haber robado un automóvil por miembros de la comisaría Villa Centenario de Lomas de Zamora, provincia de Buenos Aires. El examen médico que se habría realizado después de que el fiscal hablara con él habría confirmado que el joven presentaba lesiones debidas a descargas eléctricas. También habría sido víctima de golpes y patadas. A finales de noviembre de 2001 cinco agentes policiales habrían sido procesados con prisión preventiva por supuestos actos de tortura.

63. El Relator Especial también notificó al Gobierno que había recibido más información sobre **Hernán Larrañaga Rodríguez, Ricardo Sosa Márquez y Gabriel Santiago Lima**, quienes habrían sido testigos de actos de tortura denunciados por **Daniel Chocobar**, de cuyo caso ya informó en el pasado el Relator Especial (E/CN.4/2003/68/Add. 1, párr. 109). Hernán Larrañaga Rodríguez habría sido trasladado, tras actuar como testigo, a la Unidad Carcelaria n.º 9, en la que habría sido víctima de severos maltratos físicos por parte del que era en ese momento jefe de vigilancia y tratamiento del penal así como por parte de los que habrían detenido sucesivamente el cargo de alcalde mayor. Habría sido drogado y alojado desnudo en una celda de aislamiento durante cuatro días. El 11 de julio de 2001 se habría incendiado la celda de Hernán Larrañaga. Testigos habrían señalado como responsables del incendio al personal del servicio penitenciario. Habrían pasado más de 15 minutos antes de que fuese evacuado de la celda. Debido a la aspiración de monóxido de carbono y quemaduras, habría sido internado en terapia intensiva en el pabellón de quemados del hospital San Martín. Al cabo de unos meses, habría sido trasladado de nuevo a la prisión, donde habría recibido amenazas de muerte. Asimismo, la celda de Ricardo Sosa Márquez, quien también habría corroborado las denuncias de Daniel Chocobar, habría sido incendiada el 31 de octubre de 2001. Ricardo Sosa habría necesitado tratamiento hospitalario. Gabriel Santiago Lima habría recibido cuatro puñaladas por parte de otro interno cuando se hallaba en la Unidad n.º 24 de Florencio Varela, provincia de Buenos Aires. Se habrían expresado temores según los cuales la agresión podría haber sido planeada por el Servicio Penitenciario de la provincia.

64. Por carta de fecha 17 de septiembre de 2003, el Relator Especial, juntamente con la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, notificó al Gobierno que había recibido información según la cual **Gabriela Spalletti**, interna en la Unidad carcelaria n.º 29 de Melchor Romero, habría sido víctima de diversas formas de tortura o malos tratos. El 11 de agosto de 2001 habría sido llevada a las duchas, donde habría sido golpeada e insultada por el personal penitenciario. Una agente habría sumergido la cabeza de Gabriela Spalletti en una pileta. Habría sido obligada, además, a firmar informes médicos en los que se responsabilizaba de las lesiones que le habría producido el personal penitenciario bajo la amenaza de que, en otro caso, continuarían golpeándola. La interna habría sido sometida a un examen psicofísico en el que se le habría diagnosticado una fisura en el ojo. La Defensora Oficial adjunta del Departamento Judicial de la Plata habría solicitado el traslado de Gabriela Spalletti a otra unidad y formulado la correspondiente denuncia penal.

65. Por carta de fecha 17 de noviembre de 2003, el Gobierno informó de que el 12 de agosto de 2001 se iniciaron actuaciones sumarias administrativas por lesiones leves de origen dudoso en relación con Gabriela Spalletti. Ésta fue inmediatamente conducida a la Sección de sanidad para recibir asistencia médica. El Gobierno indicó que la detenida afirmó que se causó ella misma las lesiones que presentaba en el rostro al resbalar mientras realizaba su higiene personal la noche anterior. Gabriela Spalletti fue examinada varias veces por personal médico y sus lesiones se curaron sin dejar secuelas. De las actuaciones sumarias administrativas no se desprendieron elementos que permitan inferir la posibilidad de atribuir responsabilidades a terceras personas por las lesiones sufridas.

66. Por carta de fecha 29 de septiembre de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, notificó al Gobierno que había recibido información según la cual **Héctor Gustavo Agüero** habría fallecido el 19 de junio de 2002 en la Unidad Sanitaria 22, del complejo penitenciario de Olmos, provincia de Buenos Aires. De acuerdo con la información recibida, Héctor Gustavo Agüero fue detenido en febrero de 2002 en la comisaría de Malvinas Argentinas de Tortuguitas, acusado de robo. Habría denunciado que fue víctima de torturas. A pesar de que habría sido declarado no imputable por la esquizofrenia que padece, habría sido alojado en la comisaría en espera de cupo en el hospital neuropsiquiátrico Melchor Romero. Después de 40 días de alojamiento en la comisaría, habría sido destinado al complejo de Olmos. Habría sido posteriormente transferido al Hospital Neuropsiquiátrico Melchor Romero, donde el 16 de junio de 2002, habría sido hallado tirado en una camilla, rígido, con la boca golpeada, la nariz ensangrentada, la espalda llena de ampollas y sin capacidad para hablar. Un médico habría señalado que se hallaba en esa camilla desde hacía cinco días, sin tomar agua, con una sobredosis de medicación. Un juez habría rechazado una acción de habeas corpus interpuesta a favor de Héctor Gustavo Agüero porque habría considerado óptimo su estado. Otro juez habría ordenado el traslado de Héctor Gustavo Agüero a la Unidad Penitenciaria 22 de Olmos. Habría fallecido el día siguiente habiéndose afirmado como causa de su muerte una sobredosis de medicamentos suministrados en el hospital neuropsiquiátrico Melchor Romero.

67. Por carta de fecha 15 de noviembre de 2003, el Gobierno informó que el servicio penitenciario de la provincia de Buenos Aires inició una investigación administrativa en la que intervinieron el Ministerio de Justicia y Seguridad, el poder judicial de la provincia de Buenos Aires y la comisaría n.º 4 de Malvinas. Asimismo, el Gobierno informó que se ordenó una autopsia.

68. Por carta de fecha 8 de octubre de 2003, el Relator Especial recordó al Gobierno varios casos transmitidos en 2002 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

69. El 6 de noviembre de 2003, el Relator Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos respecto a la situación de **María Dolores Gómez**, defensora oficial en el Departamento judicial de San Isidro, provincia de Buenos Aires. En relación con este caso, una comunicación ya fue enviada el 11 de septiembre de 2002, a la cual el Gobierno respondió por carta de fecha 4 de octubre de 2002 (E/CN.4/2003/68/Add.1, párrs. 114 y 115). María Dolores Gómez habría recibido nuevas amenazas de muerte en relación con las denuncias que presentó sobre casos de corrupción, tortura y malos tratos en los centros penitenciarios y comisarías de policía en la provincia de Buenos Aires. El juez **Fernando Maroto** habría sido igualmente amenazado por sus denuncias de abusos contra personas privadas de libertad. Los nombres de estas dos personas habrían sido mencionados en una llamada anónima efectuada el 26 de octubre de 2003 por la cual se habría hecho una amenaza de bomba. Las autoridades penitenciarias habrían atribuido la llamada telefónica a un preso que también habría denunciado varias veces violaciones de los

derechos humanos de los detenidos. En repetidas ocasiones, algunos presos se habrían quejado de haberse visto obligados, bajo chantaje, a proferir amenazas contra María Dolores Gómez. La Comisión Interamericana de Derechos Humanos (CIDH) habría solicitado al Gobierno de la Argentina medidas cautelares para proteger la vida e integridad de María Dolores Gómez. La solicitud de medidas cautelares se habría extendido hasta julio de 2003. Si bien se habrían tomado algunas medidas de seguridad, no se habrían llevado a cabo investigaciones adecuadas.

Seguimiento de comunicaciones transmitidas previamente

70. Por carta de fecha 29 de julio de 2003, el Gobierno respondió al llamamiento urgente enviado el 12 de septiembre de 2002 en relación con la situación de la **comunidad indígena de Toba Nam Qom** (E/CN.4/2003/68/Add.1, párr. 123). El Gobierno informó de que se abrieron cinco causas judiciales en cuyo marco se investigaban los hechos del 16 de agosto de 2002 y los presuntos apremios ilegales a los que habrían sido sometidos algunos detenidos. El Gobierno también proporcionó una copia de informes elaborados por el Ministro de Gobierno de la provincia de Formosa y el Procurador General del Tribunal Superior de Justicia provincial.

Observaciones

71. El Relator Especial quisiera llamar la atención sobre algunos de los motivos de preocupación expresados por el Comité de los Derechos del Niño (CRC/C/15/Add.187, párr. 62) por el hecho de que, en virtud de lo dispuesto en el artículo 205 del Código Procesal Penal, un niño puede permanecer incomunicado hasta 72 horas. El Comité también observó con preocupación las precarias condiciones en que se encuentran los niños privados de libertad, entre las que cabe citar la falta de servicios básicos adecuados, como los de educación y salud, la ausencia de personal debidamente formado y el recurso a los castigos corporales y al aislamiento.

Australia

Follow-up to previously transmitted communications

72. By letter dated 10 February 2003, the Government provided further information concerning an urgent appeal sent on 6 December 1999 concerning **Ahmed Al-Raied**, a Libyan asylum-seeker, and his family, who were said to be facing imminent and forcible repatriation (E/CN.4/2000/9, para. 31 and E/CN.4/2002/76, para.74). The Government reported that the Committee against Torture at its twenty-seventh session decided to discontinue consideration of the communication on behalf of this family. The decision was based on the fact that Ahmed Al-Raied's counsel was no longer in contact with him and that no information was available about their whereabouts. The family escaped from Villawood Immigration Detention Centre on 26 March 2001 and remained unlawfully in Australia.

Austria

Follow-up to previously transmitted communications

73. By a note verbale dated 4 December 2002, the Government responded to a letter sent on 2 October 2002 in relation with measures taken by the United Nations Mission in Kosovo (UNMIK) to waive the immunity from prosecution, reportedly enjoyed by all UNMIK personnel under UNMIK Regulation 2000/476, in particular with respect to an Austrian CIVPOL officer who had allegedly been suspected, along with two members of the Kosovo Police Service (KPS), of torturing and ill-treating an ethnic Albanian detainee (E/CN.4/2003/68/Add.1, para. 145). The Government reported that a number of the applicable legal provisions were not respected in connection with the arrest of the above-mentioned Austrian UNMIK officer, including basic human rights standards. The police officer was repatriated in view of the fact that he was suffering from acute health problems. Criminal proceedings were initiated against him by the Vienna Regional Criminal Court, which had not been granted access to the relevant penal files by UNMIK. The officer has been charged with bodily harm, deprivation of liberty and serious threat. Disciplinary sanctions against him as well as eventual compensation to the alleged victim would depend on the outcome of the pending criminal proceedings. The Government further reported that, in accordance with Austrian law, it was not possible to extradite Austrian citizens and that the Ministry of the Interior was not aware of any international arrest warrant in connection with this case.

Azerbaijan

74. By letter dated 4 June 2003, the Special Rapporteur advised the Government that he had received information on the following individual cases. By letter dated 4 September 2003, the Government responded to a number of them.

75. **Teymur Tariel oglu Novruzbayov**, an 18-year-old resident of Baku, was reportedly beaten and kicked and forced to take psychotropic medicines at the 35th Xatai District Police Station Kamal Valiyev on 5 June 2000.

76. The Government reported that an investigation failed to corroborate allegations that law enforcement personnel had used unlawful methods of influence and had inflicted bodily harm on Teymur Tariel oglu Novruzbayov.

77. **Xaliq Oqtay oglu Yusifov** and his brother **Afiq Oqtay oglu Yusifov** were reportedly detained in Goranboy Regional Police Station from 20 and 19 November 2000, respectively to 27 April 2001. During his detention Xaliq Oqtay oglu Yusifov was reportedly beaten with heavy objects on the head and feet by police officers. As a result, his nose was reportedly broken, his face swollen and his kidneys injured. He was reportedly later transferred to the Reformatory Labour Colony 11. Afiq Oqtay oglu Yusifov was reportedly beaten several times by police officers with rubber truncheons. As a result, he reportedly began to cough up blood and his kidneys and nerves were seriously damaged. He was reportedly sentenced to 15 years' imprisonment and taken to Reformatory Labour Colony 11.

78. The Government reported that allegations according to which pressure had been used against Xaliq Oqtay oğlu Yusifov and Afiq Oqtay oğlu Yusifov were not upheld by the Court of Serious Crimes, the Appeal Court or the Supreme Court.
79. **Ramil Veyis oğlu Bayramov** was reportedly severely beaten on 21 January 2001 by three policemen from the 18th Narimanov District Police Station. His family was reportedly not informed of his detention or his whereabouts for four days.
80. The Government responded that no unlawful methods of investigation had been used and that no complaint had been lodged to that effect.
81. **Eldar Saday oğlu Musayev** was reportedly beaten in November 2001 in the District Police Station Elcin Mammadov by the prosecutor of the Investigation Department of Yasamal, allegedly in order to extract money from him.
82. **Emin Farrukh oğlu Suleymanov** was reportedly beaten with rubber truncheons and table legs, on different parts of his body by officers of Suraxani Regional Police Station on 26 January 2002. As a result, his jaw was allegedly broken. He was allegedly taken to the hospital for convicts in Boyuksor settlement for treatment.
83. The Government reported that Emin Farruh oğlu Suleymanov sustained a fractured left lower jaw after he fell in the shower of a medical institution on 2 December 2002. He had been taken there from Remand Centre No. 3 on 30 January 2002 after he was diagnosed with chronic bronchitis. An investigation into this matter was conducted on 11 December 2002. He was sentenced to eight years' imprisonment by the Court of Serious Crimes on 3 February 2003 for kidnapping. The Government further reported that in accordance with a court decision, coercive medical measures were taken regarding him on 6 May 2003 and that he was transferred to Ministry of Health Psychiatric Hospital No.1.
84. **Vyqar Mahyaddin oğlu Amirov** was reportedly beaten on 2 March 2002 at the 22nd Nasimi District Police Station by policemen.
85. The Government reported that no complaints concerning unlawful pressure had been received from Vyqar Mahyaddin oğlu Amirov.
86. **Gulnara Hacimurad qizi Cabbarova** (f), a resident of Baku, was reportedly beaten on 30 March 2002 by military personnel at her home. As a result of the beatings, she allegedly had a broken leg and was taken to a hospital for treatment.
87. **Farida Eldar qizi Musayeva** (f) was reportedly arrested on 7 March 2002 by policemen from the 27th Yasamal District Police and taken to Baku with her two children. She was allegedly beaten by the policemen in front of her children by order of the prosecutor attached to the same station.
88. The Government reported that an investigation had failed to corroborate allegations of unlawful action by law enforcement personnel.

89. **Zaur Mirzahuseyn oglu Zeynalov**, a 20-year-old resident of Baku, was reportedly arrested and beaten on 18 April 2002 by a prosecutor and a police officer.

90. **Farhad Hamid oglu Agayev** was reportedly beaten on 16 March 2002 by the prosecutor attached to the Suraxani Police Station and a police officer.

91. The Government reported that no complaints concerning unlawful pressure had been received from Farhad Hamid oglu Agayev.

92. **Alovsat Bayramli** was reportedly beaten by the chief of the 4th Binaqadi Police Station on 22 March 2002.

93. The Government reported that the Procurator's Office had received no complaint from Alovsat Bayramli concerning the conduct of the police.

94. **Mehman Qafarli** was reportedly beaten by the chief of the 6th Binaqadi Police Station on 21 March 2002.

95. The Government reported that administrative proceedings had been instituted against him and that on 22 March 2002 the Binagadi district court in Baku had sentenced him to 48 hours' administrative detention. The Government did not provide the Special Rapporteur with information concerning allegations according to which Mehman Qafarli had been beaten.

96. **R. S. M.**, a 16-year-old resident of Baku, was reportedly beaten with rubber truncheons on 17 April 2002 by a prosecutor and five or six policemen.

97. **M. A. H.**, a 15-year-old resident of Baku, was reportedly beaten with rubber truncheons, kicked and punched on 10 April 2002 by a prosecutor and a police officer.

98. The Government responded that no unlawful action was taken against the minor.

99. **Qudrat Hasan oglu Aliyev** was reportedly taken to the Office for the Prevention of Organized Crime and Terrorism on 15 May 2002. He was allegedly beaten and accused of having 15 grams of heroin in his pocket. A forensic expertise reportedly confirmed the allegations of beatings.

100. The Government reported that the Procurator's Office had received no complaint according to which Qudrat Hasan oglu Aliyev had been beaten.

101. **Vadim Garay oglu Vakilov**, a resident of Baku, was reportedly kicked and beaten in front of his wife on 6 June 2002 by a divisional inspector. He was allegedly threatened with imprisonment if he filed a complaint concerning the ill-treatment allegedly received.

102. **Farida Mehmanovna Kungurova** (f), a resident of Baku, was reportedly beaten on 26 June 2002 by the chief of Investigatory Isolator 1. As a result, she allegedly sustained bruises on her head, feet and hands.

103. The Government reported that Farida Mehmanovna Kungurova had been placed in a disciplinary unit for five days for violations of the Criminal Enforcement Code and the rules of the penitentiary institution. The Government further reported that no force had been used and no complaint of injuries had been received from the detainee, who was at the time of the Government's response serving her sentence in Correctional Establishment for Women No. 4.

104. **Namiq Telman oglu Huseynov**, a resident of Baku, was reportedly beaten with a rubber truncheon, punched and kicked on 4 August 2002 by the assistant chief of Suvalan Investigatory Isolator.

105. The Government reported that an investigation into this incident was initiated on the basis of the communication sent by the Special Rapporteur. The Government further reported that Namiq Telman oglu Huseynov allegedly testified that he had not been subjected to physical or psychological pressure during his stay in the Suvalan Remand Centre.

106. **Ahmad Seyfulla oglu Quliyev**, a 66-year-old resident of Nardaran settlement, Baku, was reportedly beaten with rubber truncheons on 21 November 2002 by six or seven police officers in Sabuncu District Police Station.

107. The Special Rapporteur had also received further information regarding incidents that allegedly took place in Nardaran on 3 June 2002, regarding which he had sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on 10 June 2002 (E/CN.4/2003/68/Add.1, para. 148). According to the new information received, **Sadiq Huseynaga oglu Feyzullayev**, aged 21, was reportedly wounded by a bullet in the stomach when policemen allegedly shot at the crowd during a peaceful meeting held in Nardaran on 3 June 2002. **Islamali Ismayil oglu Aliyev**, aged 56, was reportedly kicked on the head and beaten with rubber truncheons by police officers. **Rasim Racabli oglu Alizada**, aged 21, was reportedly injured when the police allegedly shot at the crowd. He allegedly sustained a broken leg as a result of the police action. **Ibrahim Mahammad oglu Xudaverdiyev** was reportedly kicked and beaten with rubber truncheons. **Azar Seyidhamza oglu Mehdiyev** was reportedly kicked and beaten with rubber truncheons, which allegedly caused injuries to his head, ribs and feet. **Mirzaga Cafar oglu Movlamov**, aged 33, was reportedly kicked and beaten with rubber truncheons on 4 June 2002 at the Office for the Prevention of Organized Crime and Terrorism of the Ministry of Internal Affairs.

108. The Government reported that on 3 June 2002 a group of protestors armed with guns, knives, sticks, stones and iron bars attacked a number of police officers. As a result, 80 persons were injured, and 17 vehicles burnt or damaged. The Government indicated that as the group of protestors had started shooting first, the police were obliged to fire warning shots into the air and withdraw from the village. The Government further stated that according to the results of a criminal investigation conducted by the Serious Crimes Division of the Attorney-General's Office after this incident, a group of individuals known as *aksakkals* of Nardaran village had established an illicit religious council and tried to disseminate social action advertisements through the media, in an attempt to establish an unconstitutional religious form of government. Proceedings were brought against Mirzaga Cafar oglu

Movlamov for participating in the disturbances and he was remanded in custody. He was eventually given a non-custodial sentence. Sadiq Huseynaga oglu Feyzullayev, Rasim Racabli oglu Alizada and Islamali Ismayil oglu Aliyev were neither questioned nor charged during the investigation. On 5 February 2003, a hand grenade was confiscated from Azar Seyidhamza oglu Mehdiyev, who was subsequently given to a non-custodial sentence. The Government reported that none of the above-named persons were subjected to psychological or physical pressure during preliminary investigation.

109. By letter dated 4 June 2003, sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur, advised the Government that he had received information according to which **Suleiman Mamedii, Seimur Verdizade, Aibeniz Velikhanly, Parvin Sadai, Raghim Gadinov, and Rasim Mustafaoglu**, journalists, were assaulted along with other journalists by the police on 12 May 2001, while they were reportedly covering a demonstration organized by the Democratic Party of Azerbaijan (ADP) in Fizuli square, to demand the release of prisoners allegedly detained on political grounds. Suleiman Mamedii was reportedly beaten and detained by the police. Seimur Verdizadewas and Raghim Gadinov were reportedly beaten by men in civilian clothes. Aibeniz Velikhanly and Parvin Sadai reportedly sustained minor injuries allegedly inflicted by the police. Rasim Mustafaoglu reportedly sustained minor injuries allegedly inflicted by men in civilian clothes.

110. By letter dated 16 September 2003, the Government informed the Special Rapporteur that according to the results of an inquiry conducted by the investigative division of the Baku Central Police Department, the journalists indicated that no illegal action was committed against them on 12 May 2001, that they had sustained no injuries and that they had not appealed to the State authorities. Suleiman Mamedii was brought to Nasiminskiy District Police Station no. 22 on 12 May 2001 for participating in an unauthorized street procession and released one hour later after having been given a warning.

111. By letter dated 4 June 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information according to which **Malik Gulami oglu Ailyev** was reportedly hit with rubber truncheons, punched, kicked and hanged by his feet and his fingers reportedly squeezed between a door and a door jamb, by a prosecutor and other officers at the 19th Nasimi District Police Station on 28 May 2002. As a result of this treatment, his lungs were reportedly severely damaged and infected, which allegedly resulted in his death on 12 January 2003, while imprisoned at the 3rd reformatory labour house.

112. By letter dated 16 September 2003, the Government informed the Special Rapporteur that Malik Gulami oglu Aliev died on 12 January 2003 after he fell ill from pulmonary tuberculosis while serving his sentence in a strict-regime colony in the Azizbekov district of Baku. The Government indicated that neither during the preliminary investigation, nor in court, was any complaint received from the detainee concerning the use of illegal methods of questioning and that no evidence of such use was found by the relevant authorities.

113. By letter dated 8 July 2003, sent jointly with the Special Representative on human rights defenders and the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he had received information according to which a number of women, among whom were the chair of the Dilara Aliyeva Society to Protect Women's Rights, the singer **Flora Kerimova** (f), were assaulted by men in civilian clothes on 20 June 2001, while 30 to 40 women activists were conducting a silent demonstration in a square near the State Philharmonic building in Baku, in protest against police violence. Some of the women were reportedly injured. A large group of police officers reportedly stood nearby and watched while this happened. The head of Sabail District Police Department who was allegedly present at the demonstration reportedly stated that the incident was as a result of the women's "own provocation".

114. By letter dated 23 September 2003, the Government informed the Special Rapporteur that the unauthorized picket arranged by the Silara Aliyeva Society to Protect Women's Rights was prevented by police officers without the use of forcible or illegal actions. The Government further reported that no complaints or medical statements have been received from Flora Kerimova.

Urgent appeals

115. On 12 February 2003, 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 Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding **residents of the village of Nardaran**, in connection of whom the Special Rapporteur already sent two joint urgent appeals with the Special Rapporteur on extrajudicial, summary and arbitrary executions on 10 June 2002 and with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 26 September 2002 (E/CN.4/2003/68/Add.1, para. 149). On February 2003, approximately 200 police officers reportedly entered the village in order to arrest persons responsible for organizing, or participating in, demonstrations against the authorities. A number of demonstrators were reportedly beaten with clubs, truncheons and gun butts, sprayed with an unknown substance and shot by the police forces. **Hamid Yakhshibeyov, Yakhshibeyov Hamid Ibrahim oglu, Rahibzade Aliabbas Safqulu oglu, Huseynov Aliakbar Hummat oglu, Hasanov Seyid Azer Hamza oglu, Alhasov Mikayil Hadjiali oglu, Hashimov Anar Farhad oglu, Talybzade Niyazi Ahmadaga oglu and Abbasov Ali Miryasif oglu**, were reportedly arrested during this police operation. They were allegedly held without access to their lawyers. Hamid Yakhshibeyov was reportedly in poor health.

116. On 22 October 2003, 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 Chairperson-Rapporteur of the Working Group on Arbitrary Detention regarding reported police violence and mass arrests during demonstrations in Baku in the context of the 15 October 2003 presidential elections. During their march to Azadliq Square, several protesters reportedly beat some police officers and soldiers, destroyed a number of police and military vehicles, and damaged government buildings along the way. Subsequently several thousand riot police and military troops allegedly surrounded the plaza, stormed the opposition protest march and beat protesters, allegedly using tear gas, rubber bullets, police dogs and

truncheons. The police allegedly beat to death at least one person, **Hamidagha Zakhidov**. An estimated 300 persons, including journalists reportedly sustained serious injuries during the clashes. It was also reported that government forces surrounded and violently attacked the headquarters of the main opposition party, Musavat, allegedly severely beating at least 50 opposition members. Approximately 190 opposition leaders and supporters were reportedly arrested afterwards, including: **Sullhaddin Akper, Ibrahim Ibrahimli, Arif Hajily, Mirbaba Babayev, Iqbal Agazade, Logman Abdullayev, Elchin Abdullayev, Vagif Hajibeyli, Sardar Jalaloglu, Panah Huseinov, Agarza Miriev, Beibala Akperov, Mikhail Humbatov, Chingiz Umudov and Fakhreddin Abdiev**, as well as dozens of opposition members who served as observers and polling-station officials and who allegedly refused to sign vote tallies from their polling stations that they believed were fraudulent. Some of them were reportedly beaten at the time of arrest. **Isa Gambar**, the Musavat party candidate for the presidential election, was allegedly placed under home arrest. Members of civil society organizations such as **Mehti Mehtiev**, director of the Human Rights Resource Centre, **Itimar Asadov**, chairman of the Karabakh Invalids Association, **Ilgar Ibrahimoglu**, a major religious leader and the head of the Centre for the Protection of Conscience and Religious Freedom, **Azad Nazimanoglu** and **Najaf Allahverdiyev**, were also reportedly arrested following the demonstrations. The place of detention of a number of the people who were arrested was reportedly unknown.

117. By letter dated 24 November 2003, the Government informed that mass meetings in front of the Musavat party headquarters on 15 October 2003 violated the Law on Freedom of Assembly. The protestors obstructed traffic in the centre of Baku and assaulted the police with stones, glass and iron rods. The following day, similar riots took place in Baku, including in Azadlyg Square, where some protestors allegedly also attacked groups of civilians. Concerning the death of Hamidagha Zakhidov, the Government reported that a forensic examination was being conducted. The Government further reported that out of 625 individuals arrested for active involvement during the riots, 90 were indicted with arrest warrants issued by courts and 471 were put in administrative detention. As of 25 October 2003 all the persons in administrative detention were released. Not all the persons included in the Special Rapporteur's urgent appeal were detained. The Government stated that all the persons arrested had access to a lawyer of their choice and the allegations of beatings were unfounded.

Observations

118. The Special Rapporteur would like to draw attention to a press release issued on 28 October 2003, jointly with the Special Rapporteur on the freedom of opinion and expression, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Representative of the Secretary-General on human rights defenders. Concern was expressed about the alleged violent clampdown on demonstrations in Azerbaijan following the presidential elections of 15 October 2003, and in particular, over events in Baku on the night of the polls and the following day.

119. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee against Torture (CAT/C/CR/30/1, paras. 5 and 6) about numerous ongoing allegations of torture and ill-treatment in police facilities and temporary detention facilities, as well as in remand centres and prisons; despite

the recommendations of the Special Rapporteur on torture, the remand centre of the Ministry of National Security continues to operate, and it remains under the jurisdiction of the same authorities that conduct the pre-trial investigation; and there continues to be reports that the ability of detained persons to lodge a complaint is unduly limited by censorship of correspondence and by the failure of the authorities to ensure the protection of the complainants from reprisals.

Bahrain

120. By letter dated 24 September 2003, the Special Rapporteur advised the Government that he had received information according to which **Yasser Jassim Makki** died in detention on 3 March 2003, as he was reportedly not given timely access to medical treatment for his deteriorating health. He had reportedly been on hunger strike on several occasions to protest against alleged complaints of ill-treatment, such as the alleged assault of prisoner **Ghazi Munshed**. On 5 August 2003, Ghazi Munshed was allegedly beaten in front of his family.

121. By letter dated 12 November 2003, the Government responded that after the health of Yasser Jassim Makki started to deteriorate he was transferred to Salmaniya Hospital for treatment. However, he died on 8 March 2003. The Department of Public Prosecutions was notified of this death and launched an investigation, which concluded that his death had been caused by sickle cell anaemia and that he had not been beaten by any of the staff of the prison in which he had been incarcerated. The forensic doctor who examined the body came to the same conclusion. The Government provided the Special Rapporteur with a forensic report, supplementary reports, the death certificate, a letter and reports from the Department of Public Prosecutions and other relevant information concerning Yasser Jassim Makki. Concerning Ghazi Munshed, the Government reported that on 4 August 2003, a number of people who had not applied for visitors' permits arrived at the prison and asked to see the prisoner. The officer in charge informed them that the rules prevented him from allowing anyone who had not applied for the relevant permit to visit a prisoner. At this point, Ghazi Munshed created a disturbance in the visitor's section and assaulted an officer. A number of police officers intervened to stop the attack and the prisoner was returned to his cell.

Observations

122. The Special Rapporteur considers it appropriate to draw attention to the concerns of the Committee on the Rights of the Child (CRC/C/15/Add.175, paras. 35) about the absence of information provided in the State party report concerning the serious allegations of torture and arbitrary arrest of persons under 18 referred to in the report, including decisions and opinions of the Working Group on Arbitrary Detention (e.g. E/CN.4/1997/4/Add.1, E/CN.4/1998/44/Add.1); and the reports of the Special Rapporteur on torture (e.g. E/CN.4/1997/7/Add.1, E/CN.4/1999/61, E/CN.4/2000/9, E/CN.4/2001/66).

Bangladesh

123. By letter dated 17 September 2003, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he

had received information according to which **Pubali Tripura**, aged 22, **S. T.**, aged 15, and **Karandi Tripura**, three Jumma women, were raped by a group of army personnel from the Artillery division of the Guimara Zone, which had allegedly raided their village, Bara Chandra Karbari Para, Matiranga Sadat, on 21 May 2001. Thirteen other Jumma villagers were allegedly beaten during this raid. Pubali Tripura's one-year-old child was reportedly seriously injured with a knife.

124. By letter dated 24 September 2003, sent jointly with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the Special Rapporteur advised the Government that he had received information according to which **Reverend Kyolachai Bhikku**, an indigenous Buddhist monk from Barbil Buddha Vihar, Manikchari area, Khagrachari district, Chittaging Hill Tracts, was severely beaten on 16 November 2002 by army personnel from Doshvila army camp, Lakshnichari zone. The army personnel allegedly entered the temple, ransacked it and dragged the Reverend outside. He was reportedly punched and beaten with sticks and rifle butts and hung upside down from a tree, then beaten again while in this position. **Mongshey Marma**, from Barbil village and another person were reportedly beaten as well.

125. By letter dated 2 October 2003, sent jointly with the Special Rapporteur on adequate housing, the Special Rapporteur advised the Government that he had received information according to which police officers raided and demolished houses belonging to members of the Hindu community of the Chakribakri, Madhukhali, Radhanagar, Bigordana and Parmadhukhali villages, in Khulna district, between 5 and 18 January 2003, as a form of punishment for their alleged support for so-called terrorist groups. At least 20 persons, including **Sonamoti Rani** (f), **Laxmi Rani Dhali** (f), **M. B.**, aged 12, **Shanchita Sirkar** (f), **Maloti Rani Mandol** (f) and **Bishnupado Bishwas**, were reportedly injured during these operations.

126. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001, for which no response had been received.

Urgent appeals

127. On 24 December 2002, 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 Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Muntasir Mamun** and **Shahriar Kabir**, two journalists and human rights defenders, who were reportedly arrested on 8 December 2002. The reason for their arrests was allegedly not disclosed. It was thought that their arrest was linked to the police investigation of the journalists Zaiba Malik, Bruno Sorrentino and Saleem Samad, for whom an urgent appeal was sent on 27 November 2002 and another on 2 December 2002, on behalf of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Chairman-Rapporteur of the Working Group on Arbitrary Detention. Shahriar Kabir reportedly had a heart attack during his interrogation at the police station during the night of 10 to 11 December 2002 and his doctor and family were allegedly not permitted to see him. The two journalists were reportedly transferred to the Dhaka Central Prison on 11 December 2002.

128. By letters dated 10 and 13 January 2003, the Government responded that Shahriar Kabir and Muntasir Mamun were released on 7 and 9 January 2003 respectively. Due process of law was followed in both cases.

129. On 10 January 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Saber Hossain Chowdhury** whose case was already included in an urgent appeal sent on 24 October 2002 (E/CN.4/2003/68/Add.1, para. 167). On 6 January 2003, the High Court reportedly declared Saber Hossain Chowdhury's arrest to be illegal and ordered his immediate release. However, he was allegedly kept in detention and implicated in another criminal case. His whereabouts were unknown. The High Court reportedly also ordered the release of **Mukul Bose** and **Muntasir Mamun** on 6 and 4 January 2003 respectively. **Sheikh Bazlur Rahman** and **Tofael Ahmed** reportedly remained in detention. All were reportedly arrested in connection with the case against Saber Hossain Chowdhury.

130. By letter dated 13 January 2003, the Government informed that Saber Hossain Chowdhury had been released on bail on 12 January 2003. The cases brought against him were under investigation, which will follow due process of law. Further, by letter dated 21 January 2003, the Government informed that Tofael Ahmed had been released on 19 January 2003 and that due process of law has been followed in his case.

131. On 21 January 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning an "indemnity ordinance" for army personnel involved in a crackdown on crime in the country, a situation which had been the object of an urgent appeal on 30 October 2002 (E/CN.4/2003/68/Add.1, para. 168). According to the information received, if the ordinance was approved by Parliament, no soldiers could be investigated or brought to justice for the deaths of at least 40 people arrested and allegedly tortured as part of the crackdown. The "Joint Drive Indemnity Ordinance 2003", issued on 9 January 2003 reportedly gives immunity from prosecution to armed forces and government officials for their involvement in "any casualty, damage to life and property, violation of rights, physical or mental damage" occurred between 16 October 2002 and 9 January 2003. According to the information received, a cabinet minister was quoted as saying that "the government regretted the deaths, but they had no alternative to rewarding the soldiers who had helped the authorities to restore law and order." The crackdown on crime, known as 'Operation Clean Heart', started on 17 October 2002 in response to growing domestic and international concern about increasing lawlessness in Bangladesh.

132. On 20 August 2003, 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 concerning **Hiramon Mondol**, a journalist, who was reportedly beaten by police and members of a special police unit assigned to combat organized crime with batons, hockey sticks and rifles, in Khulna on 8 August 2003. He was reportedly still in detention at the time this urgent appeal was transmitted.

133. On 5 November 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women concerning **Babita Baimali**,

aged 18, who was reportedly raped on 16 October 2003. It was reported that she and her alleged rapist were subsequently arrested by the police and severely beaten in a police station in Hatgangopara. Babita Baimali was allegedly taken to the hospital where she was registered by the police as a prostitute. No charges were reportedly filed against her alleged rapist despite her testimony. She was reportedly later taken by two constables to Mohonpur Chawgachi, where she was allegedly forced to take some pills and raped again by the two constables, the above-mentioned rapist and two of his relatives. Banita Baimali's brother allegedly received threats after he reportedly filed a case against the alleged perpetrators. The two constables were reportedly suspended from the police force, but not charged in connection with this case. The other three men were reportedly charged with rape but the charge that Babita Baimali is a prostitute allegedly made charges against them less serious. It was further reported that the police officer originally in charge of this investigation had been transferred to Chorghat Thana. Concerns were raised that the new police officers could obstruct a thorough investigation in order to free their colleagues from the accusations brought against them.

134. On 4 December 2003, 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 concerning **Mr. Nuruzzaman**, who was reportedly arrested by police on 18 November 2003 and taken to Sri Mangal police station in Moulvi Bazar. On 20 November 2003, he was reportedly severely beaten in his cell while in police custody, by two civilians in the presence of the police, leaving him badly injured. His condition reportedly deteriorated and police took him to Osmania hospital in Sylhet. He was later released from hospital, although his current state of health was unknown. Several weeks earlier, he reportedly held a press conference in which he accused a local member of parliament (MP) of extortion. In an apparent attempt to ensure that he remained in detention, supporters of the accused MP have so far filed five complaints against him. It was alleged that he could be returned to police detention at any time, where he could be at risk of further torture or ill-treatment in reprisal for his claims against the MP.

Follow-up to previously transmitted communications

135. By letter dated 28 January 2003, the Government responded to a joint urgent appeal sent with the Special Rapporteur on extrajudicial, summary or arbitrary executions on 30 October 2002, concerning the so-called **Operation Clean Heart** (E/CN.4/2003/68/Add.1, para. 169, see also para. 131 above). The Government explained that the purpose of the drive was to recover illegal arms, stop extortion, apprehend known criminals and restore a sense of security to public life. The Government stated that the operation had been successful in improving law and order and the incidence of violence and extortions had decreased considerably. All members of the law enforcement agencies involved in the Operation were under strict instructions not to harass innocent people. The Government further affirmed that the apprehension of a large number of persons belonging to the ruling political party also lent credence to the neutral and apolitical nature of the Operation. The Government explained that the withdrawal of armed forces had begun on 12 February 2003. Following the withdrawal of the army, Rapid Action Teams (RAT) with specially trained police personnel were formed in Dhaka. Similar teams were to be established in other cities.

136. By letter 8 July 2003, the Government responded to an urgent appeal sent on 26 August 2002 concerning **Kamal Ahmed Majumder** (E/CN.4/2003/68/Add.1, para. 166). The Government informed that several criminal cases against him were under investigation and would follow the due process of law. The above-named person had full access to legal recourse, which he was exercising.

137. By letter dated 22 July 2003, the Government responded to a communication sent by the Special Rapporteur on 2 September 2002 concerning **Badal** (E/CN.4/2003/68/Add.1, para. 158). The Government informed the Special Rapporteur that the Head of the Department of Forensic Medicine of the Dhaka Medical College Hospital stated that the “cause of death was consistent with meningitis (viral)”. A final enquiry report was submitted on 12 June 2002 to the Metropolitan Magistrate, who accepted it on 13 July 2002. No deposition about torture was made to the Magistrate. Mr. Badal’s mother reportedly withdrew her complaint owing to lack of evidence. An inquiry by the Additional Superintendent of Police of Narayangonj was now able to prove that his mother had withdrawn her case after receiving money from the police. Regarding **Jahangir, Badal Sidker** and **Johurul Islam**, the Government reported that allegations of torture while in custody could not be established during an inquiry into this matter. Johurul Islam had been released on bail on 11 September 2002 and has since then failed to appear before the relevant court. The case against them was being pursued under the Women and Children Repression Prevention Act of 2000.

Observations

138. The Special Rapporteur would like to draw attention to a press release issued by him on 24 January 2003 jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions. Serious concern was expressed over a proposed “indemnity ordinance” for soldiers allegedly involved in recent killings and cases of torture in Bangladesh.

139. The Special Rapporteur considers it appropriate to draw had attention to the concerns of the Committee on the Rights of the Child (CRC/C/15/Add. 221, paras. 43 and 77) about the prevalence of corporal punishment in schools, as well as the fact that corporal punishment is still legal and widely practised within the legal system, in educational and other institutions and in the family. It also expressed concern at the very long periods of pre-trial detention, detention of children with adults, in very poor conditions, and without access to basic services.

Belarus

140. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases initially transmitted to it in 2001, regarding which no response had been received.

Belgium

141. Par une lettre datée du 4 juin 2003, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les droits de l’homme des migrants, a informé le gouvernement qu’il avait reçu des renseignements concernant **Ibrahim Bah**, un demandeur d’asile sierra-léonais, qui aurait subi des violences physiques, au cours de

plusieurs tentatives manquées d'expulsion depuis l'aéroport de Zaventem, entre janvier et mai 2001. D'après les renseignements reçus, des policiers lui auraient donné des coups de poing et de pied alors qu'il avait les pieds et les mains liés; ils auraient exercé une forte pression sur son artère carotide, auraient lourdement pesé sur sa cage thoracique avec les jambes et un coussin, et lui auraient enfoncé un mouchoir dans la bouche. Le Ministre de l'intérieur aurait répondu que des médecins mandatés par le Ministère avaient examiné Ibrahim Bah cinq jours après la dernière tentative d'expulsion, n'avaient constaté aucune blessure particulière, ni aucun signe de négligence médicale délibérée. Il aurait ajouté que, selon les conclusions d'un rapport établi par l'Inspection générale de la police, les allégations du demandeur d'asile ne pouvaient pas être prouvées car les policiers avaient scrupuleusement respecté les procédures. Après sa libération de prison, Ibrahim Bah aurait déposé plainte pour mauvais traitements.

142. Par une lettre datée du 16 octobre 2003, le gouvernement a informé que le cas de Ibrahim Bah faisait l'objet d'une instruction judiciaire auprès du parquet de Bruxelles.

143. Par une lettre datée du 29 juillet 2003, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a informé le gouvernement qu'il avait reçu des renseignements selon lesquels **Xhevdet Ferri**, un demandeur d'asile d'origine albanaise, serait décédé dans une cellule d'isolement du centre de détention de Steenokkerzeel le 12 octobre 2000. Peu avant sa mort, il aurait subi des mauvais traitements et n'aurait pas reçu l'attention médicale nécessaire. Une enquête pénale et une enquête administrative auraient été ouvertes immédiatement après son décès. Une autopsie réalisée le 14 octobre 2000 n'aurait pas éclairci les causes de sa mort. La personne qui aurait partagé la cellule avec lui et aurait alerté les gardiens aurait été déportée en Albanie avant que l'enquête sur ce décès n'ait été conclue.

144. Par une lettre datée du 6 novembre 2003, le gouvernement a répondu que Xhevdet Ferri n'avait pas introduit de demande d'asile. Son rapatriement vers l'Albanie étant prévu pour le 13 octobre 2000, il avait été transféré la veille au Centre de rapatriement 127 *bis* à Steenokkerzeel, d'où il tenta de s'évader le soir même. Il fut repris par la police et le personnel de sécurité du Centre alors qu'il se serait trouvé hors du périmètre du Centre, ne semblant pas en état de marcher et restant couché sur le sol. Les services de police le ramenèrent alors au Centre où il fut placé dans une cellule d'isolement. Aucun élément ne permit au personnel du Centre de conclure à ce stade que Xhevdet Ferri était blessé. Cependant, lorsque l'on constata que celui-ci était pris d'un malaise, une ambulance fut appelée immédiatement. Le personnel du Centre et une équipe du service mobile d'urgence essayèrent sans succès de le ranimer en attendant l'arrivée des secours. Le gouvernement a également informé qu'une enquête concernant les faits avait été ouverte immédiatement par la police et le parquet. La personne qui partageait la cellule d'isolement avec Ferri avait effectivement été rapatriée après que les autorités judiciaires eurent donné leur autorisation à cet effet. Au moment de la communication, une enquête pénale était en cours à la chambre du Conseil concernant les faits énumérés et l'affaire pouvait être renvoyée au tribunal correctionnel. Finalement, le gouvernement affirma que certains agents de sécurité du Centre de rapatriement 127 *bis* et certains membres des services

de police fédéraux avaient fait l'objet d'un dossier à charge auprès du tribunal de première instance de Bruxelles.

145. Par une lettre datée du 24 septembre 2003, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants, auxquels le gouvernement a répondu par une lettre datée du 13 octobre 2003.

146. **Emily Apple**, citoyenne britannique, aurait été arrêtée à Bruxelles, le 15 décembre 2001, après avoir participé à une manifestation organisée à l'occasion du sommet de Laeken de l'Union européenne. Elle aurait alors été frappée à la tête, aux jambes et forcée de se coucher sur le sol face contre terre. Durant son arrestation, elle n'aurait pas été informée que ses agresseurs étaient des membres de la police. Elle aurait eu les mains attachées durant plus de deux heures et son manteau lui aurait été enlevé malgré une basse température. Elle aurait été informée que son arrestation était due au fait qu'elle n'avait pas obéi à un ordre de dispersion de la manifestation. Cependant, il est allégué qu'aucun ordre de la sorte n'aurait été donné. Elle aurait ensuite été conduite au poste, d'où elle aurait été relâchée à 2 h 30 du matin. Elle n'aurait pas reçu de couvertures suffisantes pour se protéger contre le froid, n'aurait pas reçu de nourriture, et n'aurait pas été autorisée à voir un avocat ni à faire un appel téléphonique.

147. Le gouvernement a informé que le cas d'Emily Apple avait été traité de manière individuelle avant d'être englobé dans une enquête plus générale sur les arrestations administratives dans le cadre du maintien de l'ordre. L'enquête était toujours en cours lorsque le gouvernement a envoyé cette communication.

148. **Omar Daoud**, un immigrant irrégulier, aurait été arrêté par la police à Bruxelles, le 15 juillet 2000, et emmené à une gendarmerie où il aurait été menotté, puis dénudé et battu. Il aurait eu le genou droit fracturé. Il aurait été emmené à un hôpital puis retourné à la gendarmerie où il aurait de nouveau été battu jusqu'à ce qu'il perde conscience. Au milieu de la nuit, il aurait de nouveau été emmené inconscient à l'hôpital. Deux certificats médicaux attesteraient ces blessures. Il aurait déposé une plainte contre des agents de police. La plainte aurait également été transmise au Comité permanent de contrôle des services de police (Comité P).

149. Le gouvernement a répondu que le dossier relatif à Omar Daoud avait été clôturé par un non-lieu le 13 décembre 2001.

150. Par une lettre datée du 25 septembre 2003, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée, a informé le gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants, auxquels le gouvernement a répondu par une lettre datée du 13 octobre 2003.

151. **Bernardin Mbuku-Iwangi-Sung** et son épouse, **Odette Ibanda Mavita**, tous deux ressortissants belges originaires du Congo, auraient été arrêtés le 3 février 2003 chez eux à Bruxelles. Ils auraient été tirés violemment de leur appartement et traînés dans les escaliers. Ils auraient été objet de violence physique et verbale, en particulier de nature raciste. Bernardin Mbuku-Iwangi-Sung aurait été par la suite jeté dans un véhicule, les mains fortement attachées. Au poste de police, il aurait été

placé dans une cellule, les poignets attachés durant plusieurs heures. Il aurait souffert d'une fracture au bras et de multiples contusions au niveau du dos et serait resté trois jours à l'hôpital. Son épouse, qui aurait été enceinte d'environ cinq mois au moment de l'incident, aurait reçu des coups au dos, un chiffon lui aurait été mis dans la bouche et elle aurait été conduite au poste de police quasi nue. Leur fils de deux ans aurait été laissé seul dans l'appartement. Une plainte aurait été déposée, certificat médical à l'appui, au bureau du procureur de Bruxelles.

152. Le gouvernement a informé que les dossiers concernant Bernardin Mbuku-Iwangi-Sung et Odette Ibanda Mavita avaient fait l'objet d'une enquête judiciaire menée par le Comité permanent de contrôle des services de police et avaient été soumis à une instruction judiciaire.

153. **M. Iiyassou** aurait été arrêté le 25 mai 2002 à Bruxelles. Il aurait été poussé par terre puis contre un mur. Les agents de police lui auraient par la suite mis des menottes tout en lui administrant des coups. Il aurait ensuite été forcé à monter dans le véhicule de la police où il aurait été obligé de se coucher sur le dos les mains attachées par derrière et un des officiers se serait alors appuyé sur lui de tout son poids tout en le frappant au visage et en proférant des injures racistes à son encontre. Au poste de police, il aurait de nouveau été brutalisé et sa tête aurait été frappée contre l'angle d'un mur. Suite à sa mise en liberté, lorsqu'il aurait vu que certains de ses effets personnels avaient disparu, il aurait tenté de déposer une plainte au poste de police. L'officier de garde aurait refusé de prendre sa plainte au motif qu'il y avait un problème éthique de recevoir une plainte à l'encontre d'autres officiers de police. Il se serait rendu à un second poste de police où il aurait semble-t-il reçu la même réponse. Il est rapporté qu'il aurait ensuite déposé plainte auprès du Comité permanent de contrôle des services de police et qu'il aurait à cette occasion produit un certificat médical, attestant de multiples contusions faciales, de contusions et coupures au niveau du poignet et d'une blessure à la joue.

154. Le gouvernement a informé que le dossier concernant M. Iiyassou avait fait l'objet d'une enquête judiciaire menée par le Comité permanent de contrôle des services de police et avait été soumis à une instruction judiciaire. Le 10 juin 2003, le dossier avait été déposé au greffe de la chambre du Conseil (arrondissement de Bruxelles) en vue de règlement de procédure.

Observations

155. Le Rapporteur spécial voudrait attirer l'attention sur certaines préoccupations exprimées par le Comité contre la torture (CAT/C/CR/30/6, par. 5), en particulier par des cas d'utilisation excessive de la force lors de manifestations publiques ou d'éloignement d'étrangers, et par le fait que des étrangers, même établis de longue date, ayant gravement porté atteinte à l'ordre public ou à la sécurité nationale peuvent être éloignés du territoire alors que la majorité de leurs attaches est en Belgique.

Belize

156. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a case initially transmitted to it in 2002 regarding which no response had been received.

Bolivia

157. Por carta de fecha 11 de julio de 2003, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, notificó al Gobierno que recibió información sobre **Rolando Gutiérrez Aguilar**, Presidente de la Asamblea Permanente de Derechos Humanos (APDH) en Eterazama, departamento de Cochabamba. El 8 de noviembre de 2001 habría sido golpeado con palos por miembros de las fuerzas conjuntas. Dos días después, habría resultado herido en la cabeza por una cápsula de gas lacrimógeno y a los dos días de este incidente tres miembros de las fuerzas de seguridad le habrían golpeado con los pies, pegado con palos y propinado golpes con la cacha de un revólver mientras lo habrían amenazado. Más tarde habría sido detenido temporalmente y le habrían confiscado su cámara y su identificación como miembro de la APDH.

158. Por carta de fecha 27 de octubre de 2003, el Gobierno informó de que el antiguo Viceministro de Derechos Humanos presentó una denuncia formal sobre el caso el 5 de noviembre de 2002.

159. Por carta de fecha 11 de agosto de 2003, el Relator Especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, notificó al Gobierno que recibió más información sobre la presunta violenta represión contra manifestantes en el Departamento de Cochabamba entre el 13 y el 15 de enero de 2003. La Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y expresión, la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas enviaron el 27 de enero de 2003 un llamamiento urgente al respecto. Cuatro personas habrían muerto y muchas más habrían resultado heridas durante la represión por parte de la policía y el ejército contra protestas relativas al disfrute de los derechos económicos, sociales y culturales. Las fuerzas del orden habrían hecho un uso excesivo de la fuerza y habrían utilizado municiones vivas contra los manifestantes. Además, los días 14 y 15 de enero aproximadamente 165 personas habrían sido detenidas y trasladadas a instalaciones militares. Muchas de estas personas habrían resultado heridas durante su detención. Los detenidos habrían sido puestos en cobertizos con techo de calamina sin ventilación y no habrían tenido acceso a comida, atención médica y servicios higiénicos durante varias horas. Veinte personas habrían sido acusadas de instigación a la delincuencia pública, ataques contra transportes públicos y sedición. En este contexto, el Relator Especial notificó que recibió información sobre los siguientes casos individuales.

160. **Esteban García** habría resultado herido en el maxilar inferior por el impacto de un proyectil de arma de fuego; **Luis Cutipa**, diputado, habría sido arrestado y golpeado, sus pertenencias sustraídas y su domicilio allanado; **Rómulo Gonzales Terán**, de 18 años de edad, habría resultado herido de bala en el tórax; **Félix Ibarra** habría recibido un impacto de bala en el abdomen inferior; **Victor Hinojosa** habría resultado herido por un disparo de arma de fuego; **Miguel Cabezas** habría resultado herido por un balín en la garganta y el maxilar inferior; **Constantino Cabezas** habría recibido el disparo de dos balines en el brazo derecho; **Jacinto Condori** habría

resultado herido por arma de fuego; **Norberto Escalera** habría resultado herido por un proyectil en el muslo que le habría causado una fractura; **Ariel Flores Moya** habría presentado una herida tangencial en el abdomen; **Paula Garcia** habría resultado herida de balín en la rodilla derecha; **Juan José González** habría resultado herido por un balín en el labio y el pómulo izquierdo; **Celso Herrada Claros** habría caído en estado de coma debido a las agresiones supuestamente sufridas; **Richard Hidalgo**, **Victor Luna** y **Lazarte Silvia** habrían presentado lesiones leves, tras ser heridos; **Humberto Ledezma** habría presentado policontusiones, tras ser supuestamente agredido; **Luis Antonio Lizarraga** habría resultado herido por un proyectil con arma de fuego en el tobillo derecho; **Javier Mercado** habría presentado lesiones de distinta gravedad tras haber sido agredido con mangueras; **Cesar Morales Butron** habría sido herido por un proyectil de arma de fuego detrás de la rodilla; **Máximo Morales Flores** habría resultado herido por un proyectil en ambos muslos; **Rocío Velásquez** habría presentado lesiones de distinta gravedad tras haber sido supuestamente agredida.

161. **Escaldercio Orellana** habría fallecido como consecuencia del impacto de proyectil de arma de fuego; **Tomasa Condori** habría fallecido en la localidad en circunstancias no esclarecidas; **Adrián Martínez** habría fallecido como consecuencia del impacto de un proyectil de arma de fuego; **Iver Quispe** habría sido encontrado muerto en una carretera de Palo Blanco, Entre Ríos. Su cuerpo habría presentado marcas de tortura pero las fuerzas armadas habrían declarado que fue atropellado; **Willy Hinojosa** habría muerto en Sinahota, de un disparo de proyectil de arma de fuego en el abdomen.

162. Por carta de fecha de 8 de octubre de 2003, el Relator Especial recordó al Gobierno varios casos transmitidos en 2001 y 2002 respecto de los cuales no había recibido respuesta.

Llamamiento urgente

163. El 15 de octubre de 2003, el Relator Especial envió un llamamiento urgente, juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y expresión, la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, sobre alegaciones de violencia por parte de las fuerzas públicas durante manifestaciones organizadas en distintos puntos del país desde el 20 de septiembre de 2003. Según las informaciones recibidas, al menos 50 personas habrían fallecido y centenares habrían resultado heridas como consecuencia de las actuaciones combinadas de la policía y el ejército para neutralizar dichas manifestaciones. En el desarrollo de estas actuaciones, se habría hecho un uso excesivo de la fuerza por parte de las fuerzas policiales y militares. Se alega que los manifestantes pedían al Gobierno el abandono de un proyecto de venta de gas y la aprobación de programas que beneficien a los habitantes locales.

164. Por carta con fecha 10 de noviembre de 2003, el Gobierno confirmó que estos incidentes conllevaron 56 muertes certificadas y más de 200 personas heridas, cifras que podían incrementarse según avanzaban las investigaciones. En el marco de

estas investigaciones, en lugares distantes de la capital tales como Sorata, Patacamaya, Warisata y Ovejuno, se esperaba un equipo de expertos en balística, planimetría, ángulos y proyecciones así como los fiscales encargados de la investigación. Para ello, se necesitaban fondos económicos suficientes. Por el momento, no se contaba con información oficial sobre las circunstancias, partícipes, medios empleados, resultados de los hechos y otros. El Gobierno informó igualmente que se seguía atendiendo a los heridos que se presentaban ante los médicos forenses del Instituto de Investigaciones Forenses (IDIF), para su reconocimiento oficial, labor que se realizaba en coordinación con organismos ligados a la Iglesia católica o a los derechos humanos y con el Defensor del Pueblo.

Observaciones

165. El 16 de octubre de 2003, a través de un comunicado de prensa, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y 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 sobre la situación de los defensores de los derechos humanos, expresó su preocupación por la violencia y pérdida de vidas durante las diversas manifestaciones en distintas partes del país, particularmente en la zona del Alto en octubre de 2003.

166. El Relator Especial espera poder responder positivamente a la invitación para visitar el país transmitida por el Gobierno en junio de 2001.

Bosnia and Herzegovina

Urgent appeals

167. On 14 May 2003, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders concerning **Mladen Mimic**, President of the “Milicanin” Citizens’ Association in Milici, Republica Srpska, who was beaten in front of his house by a group of unknown individuals on 26 March 2003. He was reportedly transported to hospital for emergency surgery. His family reportedly immediately informed the local police about this incident but the police allegedly failed to initiate an investigation. On 19 April 2003, Mladen Mimic allegedly received an anonymous letter containing threats.

168. On 15 August 2003, the Special Rapporteur sent an urgent appeal concerning **Amgad Fath Allah Yusuf ‘Amir**, a man of Egyptian origin, who was reportedly arrested in Orašje on 30 July 2003, on the grounds that he and his family were travelling with false passports. His extradition was reportedly requested by Egyptian authorities claiming that he is a member of a banned secret political organization. Fears were expressed that he could be subjected to torture or other forms of ill-treatment if he was forcibly returned to Egypt.

Brazil

169. By letter dated 17 September 2003, the Special Rapporteur advised the Government that he had received information on the following individual cases.

170. **Alex Sandro Martiniano de Oliveira**, an inmate at the *Penitenciária de Riberirão Preto*, was reportedly beaten with iron poles and wooden sticks on 29 November 2002, by prison officers. He reportedly received medical treatment the same day at the *Clinica de Riberirão Preto*. On 30 November 2002, his sisters were allegedly informed of his death. The forensic examination concluded that he had suffered from a severe internal haemorrhage, polytraumatism and haematomas. A press release was reportedly issued stating that his death was as a result of a riot between prisoners.

171. **Paulo Eugenio Pereira**, an inmate at the Londrina Detention Center (CCL), was reportedly removed from solitary confinement and taken to a room in the CCL allegedly used for the administration of punishment (known as the *salinha*) on 26 March 2002. He was reportedly knocked to the ground and severely beaten and kicked by five guards. His subsequent request for medical treatment was reportedly initially disregarded. On 28 March 2001, he was reportedly taken to the Londrina Institute of Forensic Medicine, and he reportedly filed a formal complaint with the Paraná State Police.

172. **Ivanildo Francisco da Silva, José Luiz dos Santos, Severino dos Ramos dos Santos, Antônio Francisco da Silva and José Inacio da Silva Irmão** were reportedly arrested without charges on 22 May 2002 by military and civil police, at the Mendonça Farm encampment, Mogeiro Municipality, Paraíba. **Marcelo Francisco da Silva, Severino José da Cruz, and José Martins de Farias** were reportedly arrested under the same circumstances on 23 May 2002. They were all allegedly held in detention at the Central Police Station in João Pessoa, in connection with the murder of a policeman. During the lawyers' visit to the detainees on 24 May 2002, one of the detainees reportedly told them that a plastic bag was placed over the head of Marcelo Francisco da Silva and that he had been separated from others detainees. Severino José da Cruz allegedly reported to the lawyers that José Martins de Farias, Marcelo Francisco da Silva and himself had been punched by police officers. José Inacio da Silva Irmão allegedly reported that he was chained to the bars of a cell and forced to stand for an entire night. On 29 May 2003, the João Pessoa Forensic Medical Division reportedly conducted a medical examination of the detainees and found no marks of torture. José Martins de Farias and Severino José da Cruz allegedly reported to their lawyers on 30 May 2003 that they had been beaten after the medical check-up.

173. **Antônio Gonçalves de Abreu, Márcio Cerqueira Gomes and Samuel Dias Cequeira** were reportedly arrested on 7 September 2002, by Federal police agents in Rio de Janeiro, and taken to Playa Mauá Federal Police Headquarters, on suspicion of participating in the murder of a federal police agent. All of them were reportedly released the next day. Antônio Gonçalves was allegedly critically injured and reportedly died on 8 September 2002. His face was allegedly considerably disfigured. According to the death certificate, he died due to head traumatism with a cranial fracture and with internal and external haemorrhaging. Márcio Cerqueira Gomes and Samuel Dias Cequeira reportedly sustained bruises and cuts in various parts of their bodies. They reportedly denounced the treatment received while in custody by federal police agent to the Human Rights Commission.

174. **62 prisoners at the Pedrinhas Detention Center** in São Luis, Maranhão, were reportedly subjected to torture or other ill-treatment. It is believed that the Director of the Detention Center ordered a swat team to enter Pavilion B on 24 November 2002 after receiving news of a possible escape. The troops reportedly undressed some sixty prisoners and forced them to pass through a so-called *corredor polonês* in which they allegedly punched, kicked, and beat the prisoners with nightsticks and rifles as they passed through. It is also alleged that the prisoners were forced to lie down on the ground while the troops reportedly jumped onto their backs and forced their nightsticks in their anuses. It is believed that the prisoners presented a list of persons tortured to authorities during a visit by the Maranhão State Public Prosecutor, the Justice and Peace Commission, the Catholic Prison Ministry, the Maranhão State Human Rights Defence Society, and a Judge from the Court of Criminal Executions on 26 November 2002. A medical examination on 62 inmates by reportedly confirmed these allegations.

175. The Special Rapporteur advised the Government that he had also received information on several cases of torture or ill-treatment reportedly denounced by the former Justice Secretariat Ombudsman and which were allegedly disregarded by the Justice Secretary. According to the information received by the Special Rapporteur, the Ombudsman had been several limitations imposed on his visits to prisoners, like prior authorisation from the Superintendence of the Penitentiary System (SUSIPE), and that he was eventually dismissed. These measures were allegedly connected with his continued reports on torture. In this connection, the Special Rapporteur was informed that the following cases have remained un-investigated.

176. **Adriano de Souza Lima, Edvaldo Salustiano dos Santos and Edimário Ferreira**, detained at the *Advogado Brito Alves* Penitentiary in Arcoverde, Pernambuco State, were reportedly beaten with a wooden stick, kicked and punched in various parts of their bodies on 6 June 2002. Adriano de Souza Lima and Edvaldo Salustiano reportedly had a plastic bag put over their heads as a result of which Edvaldo Salustiano lost consciousness. They were reportedly handcuffed to the bars of a cell and forced to stand for a whole night. The Justice Secretariat Ombudsman, who reportedly visited the Penitentiary in Arcoverde on 13 June 2002, allegedly noticed that the three above-named men had suffered from ill-treatment. A police inquiry was reportedly opened, and the three inmates taken to hospital. The Justice Secretary reportedly disregarded the recommendation of the Ombudsman to open an administrative inquiry to investigate the conduct of the State agents, to put those involved in administrative leave during the investigation, to replace the Direction of the Penitentiary and to transfer the three inmates to the Penitentiary in Pesqueira for security reason.

177. **Luciano Bezerra Dos Santos, Alexandre Severino Barreto, Lindinaldo Simões da Silva, Marcos Luciano da Silva, José Alentar Becerra da Silva, Alexandre Hugo de Souza Santos, and José Marcelino da Silva**, reportedly presented signs of torture during a visit of the Ombudsman to the *Professor Barreto Campelo* Penitentiary, Recife State, on 25 July 2002. The Ombudsman reportedly asked a SUSIPE Colonel to assure that those inmates were taken to the Forensic Medicine Institute to be examined. When the Ombudsman returned to the Penitentiary on 1st August 2002 to take written statements from the inmates, he was informed that they had allegedly refused to be examined. According to the information received by

the Special Rapporteur, the Security Direction, following an order from SUSIPE, prepared a document in which the inmates stated that they had not suffered any mistreatment inside that Penitentiary, and therefore no reason existed to be taken to the Forensic Medicine Institute. The Ombudsman reportedly recommended to the Justice Secretary the opening of an administrative inquiry to investigate the State agents and to report the fact to the District Attorney's Office for the appropriate legal measures.

178. **Carlos Roberto Ribeiro**, inmate at *Professor Barreto Campelo* Penitentiary, was allegedly forced to walk between two lines of guards who beat him while he walked on 12 June 2002. He was reportedly hit with wooden sticks, punched in the back, kicked with military boots in his mouth and back, and a plastic bag was allegedly put over his head. A medical examination reportedly attested that Carlos he presented evident signs of have been subjected to ill-treatment. The Ombudsman reportedly recommended to the Justice Secretary the opening of an administrative inquiry to investigate the State agents on duty that day, as well as their immediate suspension; and the replacement of the Security Director; and to report the facts to the District Attorney's Office for the appropriate legal measures.

179. **Edivan Galdino de Oliveira**, inmate at the *Professor Barreto Campelo* Penitentiary, was reportedly beaten in various parts of his body while he was handcuffed with a revolver butt, kicked and punched on 30 July 2002 by the Penitentiary's Director of Security and two prison guards. A doctor allegedly confirmed this aggression. Edivan Galdino de Oliveira was reportedly taken to the Itamaracá Police Station, where he reportedly made a complaint. According to the information received, the Ombudsman recommended to the Justice Secretary the opening of an administrative inquiry to investigate the State agents on duty, and to report the facts to the District Attorney's Office for the appropriate legal measures.

180. **Laércio de Souza Raimundo, Marcus Maciel do Espírito Santo and Fabio Luiz de Athaide**, inmates of the Penitenciária II de Serra Azul, were reportedly beaten between 21 and 27 March 2003. They allegedly reported ill-treatment to a non-governmental organization which visited the centre on 29 March 2003. As a consequence, Fabio Luiz de Athaide reportedly received death threats by the General Director of the Detention Centre. The above facts were allegedly reported to "La Corregedoria" of the penitentiary centre, and to "1º Ouvidor".

181. **Silvio Gomes dos Santos and 16 other prisoners** were allegedly severely beaten for several hours in Penitentiary Centre 1 Avaré by several penitentiary officers on 25 April 2003. A complaint was allegedly filed to "La Corregedoria" of the Detention Center and to "1º Ouvidor".

182. **Francisco J.A. dos Santos, Alfredo Luis Carelli Lima Júnior, Ademar Siquiera Silva, Messias da Silva Freire, Alex Andrade Genuíno Cantão, Elias Borges de Azevedo**, inmates at the Penitenciária I de Potim, were allegedly beaten by several penitentiary officers on different dates in March and April 2003. It is also reported that **Leandro Moreira** and **Marcelo dos Santos Toledo**, other inmates had not access to medical treatment although Leandro Moreira allegedly suffered from a "facial's paralysis" and Marcelo dos Santos Toledos' orthopaedic was broken.

A complaint was reportedly submitted to the “Corregedoria” of the Detention Centre and to the “Ouvidor”.

183. **Joaquim Ferreira da Silva**, inmate at Penitenciária II de Serra Azul, São Paulo, was reportedly punched and kicked on 16 February 2003 by officers. As a result, he reportedly suffered from haematomas on the legs, the back and on the nape of the neck. He allegedly suffered from serious pain on his reins and he had difficulties to urinate.

184. **Wilson Lopes** was reportedly beaten with kicks and punches on 23 February 2003, while in detention at Penitenciária II de Serra Azul, by several penitentiary officers. He allegedly lost a large amount of blood, resulting in a critical health state. Wilson Lopes was allegedly subsequently held in incommunicado detention and transferred to Penitenciária Presidente Prudente on 28 February 2003. A complaint was reportedly submitted to the “Corregedoria” of the Detention Centre and to the “Ouvidor”.

185. **Mário Lúcio Soares Alves** was reportedly detained on 22 August 2002 by civil policemen and taken to the Commissariat de Poa on suspicion of homicide. He was reportedly transferred to the Public Prison of Mogi das Cruzes, to Suzano and to the Commissariat of Mogi das Cruzes, where he was allegedly beaten on 11 February 2003. He was reportedly taken hospital on the same day and on 13 February 2003. He was reportedly barely able to speak, he sustained a scarce on his head and haematomas on both eyes, his right arm was reportedly broken, he could allegedly not control his bladder and his lumbar region was reportedly swollen.

186. **Antonio Carlos T. Wanderly**, an inmate at the *Serra Azul* Detention Centre, was reportedly arrested on 8 January 2003 by police agents. He was allegedly shot in the head during detention. He was reportedly taken to the 7th Secretariat of Police and placed in a cell for about three days, before being taken to a court, where he was allegedly beaten until he collapsed on the floor. Several police agents allegedly walked on his neck and lacerated his legs and arms.

187. **Manuel Fernando do Nascimento de Jesus** reportedly received nine shot-guns before being arrested, on 12 October 2002 at Vila Matilda, Zona Leste, by police agents. It is reported that he was placed in the police’s vehicle and driven for five hours before being taken to a hospital. Afterwards he was reportedly taken to the 21st Commissariat, where he allegedly stayed for other four days before being transferred to Belém Detention Centre I. Despite his alleged poor condition, intake of dipirona and several injections are said to be the only medical treatment he has received since he was transferred to Belém.

188. **André Luiz do Prado** was reportedly arrested on 27 July 2002 by military policemen during an escape from the police. He was reportedly shot in the right leg and beaten by the agents. He was reportedly taken to the 75th Commissariat, where his lawyer’s request for medical treatment was allegedly refused. He was reportedly transferred to Osasco’s Commissariat and held in incommunicado detention for five days. His leg was allegedly amputated due to gangrene.

189. **Nivaldo Braga de Oliveira** reportedly died on 16 February 2003 at Andaral District's Police Station, Bahia State. His wife, **Neusa Da Cruz Brandão**, was reportedly being held in another cell since 14 February 2003, on suspicion of theft. She was reportedly released on 17 February 2003 showing signs of beatings and without being informed about her husband's death. Neusa Da Cruz Brandão reportedly saw her husband being beaten in the external area of the cells. It is reported that a police inquiry was initiated and that six individuals, including the Police Station Chief Officer were charged with torture. It is also reported that these six individuals have been indicted by the Public Prosecutor. The first hearing was reportedly scheduled to be held on 15 July 2003.

190. By letter dated 17 September 2003, sent jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur advised the Government that he had received information according to which **Ijhad Abdelaziz**, a Moroccan man living in Boa Vista, Recife, Pernambuco, was reportedly beaten, kicked and trodden on all over his body, especially his stomach, kidneys, legs and thorax by three members of the Military Police, one of them allegedly identified as a Tenente from the 16th Military Police Battalion, on 1st February 2003. He was reportedly handcuffed and beaten again when the police officers realized that he was a foreigner. He reportedly filed a complaint with the police on the same day at the District Civil Police Station in Santo Amaro. The Legal Medicine Institute reportedly noticed many visible scars. On 5 February 2003, another complaint was allegedly presented to Pernambuco State's Police Omubdsman's Office. A non-governmental organization allegedly transferred the case to the District Attorney's Office-Central of Torture Complaints and reportedly informed the Military Police about the incident.

191. By letter dated 29 September 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information according to which **Denilson Bueno de Toledo**, a 19-year-old resident of Jardim Venez, Peruipe, Sao Paulo, was reportedly arrested at a petrol station, in Peruipe, by civil policemen on 30 April 2003. He was reportedly handcuffed and beaten in the police's vehicle, as well as at the Police Central Commissariat of Peruipe. He was reportedly taken to the hospital of Peruipe, but he was allegedly already dead. A complaint was reportedly submitted on his behalf to the relevant authorities.

192. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002, 2001, 1999, 1998 and 1997, for which no response had been received.

Urgent appeals

193. On 23 January 2003, the Special Rapporteur sent an urgent appeal concerning **juvenile detainees at the Franco da Rocha detention centre**, State of São Paulo, a juvenile detention facility that had been visited by the Special Rapporteur on 24 May 2000 during his mission to Brazil (see ENC/.4/2001/66/Add.2, paras 44-52). There had reportedly been several riots and incidents of beatings there in the last month, which were allegedly instigated by *monitores* (warders) at the centre. Fears was expressed that the increasing tension in the centre could lead to

further serious violence and serious concern was expressed over the situation of some 400 juvenile detainees currently detained there. The Special Rapporteur welcomed the decision of the new Director of the FEBEM to investigate and punish *monitores* suspected of being responsible for torture and other forms of ill-treatment.

194. On 12 February 2003, the Special Rapporteur sent an urgent appeal concerning the conditions of detention in Police Station no. 85 in Sao Paulo, which was reportedly holding 137 prisoners despite its 20 person capacity. There was reportedly no ventilation or sunlight and there was allegedly a lack of water, clothing and medical assistance. Most of the detainees were reportedly bearing signs of illness, bruising and other ailments and routinely punished for a failed rebellion that allegedly took place on 19 January 2003. It is reported that following the riot, the Special Operations Group violently clubbed and kicked the detainees, seized their personal belongings and arbitrarily fired shots. **Cleiton Barreto Pinheiros** was reportedly shot in the leg on 19 January 2003 and did not receive the prescribed medical treatment. He was also allegedly beaten as a reprisal. Due to his untreated leg wound and the alleged conditions of detention in Police Station no. 85, he was allegedly running the risk of infection. Detainees **Tomas Martins Pereira**, who has HIV, **Cleiton Rogerio Tavares**, who has tuberculosis and **Jesus Cristino Machado**, who is diabetic, were held in the same conditions and were not receiving medical attention.

195. On 25 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning the safety of a minor known as **FC**, as well as **Fabio Junior Gonzaga da Silva**, aged 22, and **Josivan Antonio dos Santos**, aged 20. FC and Fabio Junior were reportedly stopped on 5 April 2003 in a street of Gurupi, Tocantins State, by two military policemen who accused FC of having taken part in a robbery in December 2002. The policemen allegedly made FC lie down in a car and ordered Fabio Junior Gonzaga da Silva "to disappear". FC was reportedly then taken to a wooded area where he was allegedly handcuffed, beaten and partially suffocated with a plastic bag put over his head. FC was allegedly again abducted by three military policemen on 3 May 2003, when he was with Josivan Antonio dos Santos. The police reportedly told Josivan Antonio to go away and drove FC to the town of Natividade, 210 km from Gurupi. The minor was reportedly taken to a wooded area near Natividade, interrogated, and severely beaten on the back and head, as a result of which he allegedly lost consciousness. FC was reportedly taken to a hospital in Palmas, where he received treatment for four days. FC reportedly filed a complaint against the police officers allegedly involved in these acts. Josivan Antonio dos Santos and Fabio Junior Gonzaga da Silva reportedly testified as eye witnesses. As a result, five military policemen were reportedly arrested. Concern had however been expressed that an order to release the five police officers could be issued. Moreover, military police linked to those arrested had allegedly been seen acting suspiciously near FC's house.

Bulgaria

196. By letter dated 4 June 2003, the Special Rapporteur advised the Government that he had received information according to which **Yordan Lyubenov** and **other drivers** were reportedly stopped by three police officers on 14 February 2001 in Tserovo, a village on the outskirts of Sofia. Some of the drivers were allegedly beaten. Yordan Lyubenov is believed to have been hit on the head with the butt of a gun. As a

result, the gun was inadvertently fired and a bullet hit the wall of the mayor's office. Shortly after the shooting, a police patrol from Svoga reportedly arrived and took statements from all involved in the incident. On 19 February 2001, the Sofia Regional Department of Internal Affairs reportedly issued a statement that the three officers involved in the ill-treatment of the drivers would be suspended after an internal inquiry established that the officers "seriously violated professional ethics".

197. By letter dated 29 July 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information according to which **Milutin Mironov**, also known as **Mehmed Mumun**, reportedly died on 11 January 2001, shortly after he had been apprehended by the police in Sofia. He allegedly tried to avoid an identity check by police officers who had entered a restaurant in search of a murder suspect. He allegedly attempted to leave the restaurant through a bathroom window. Despite the fact that he was reportedly not the person the police were looking for, he was allegedly arrested and handcuffed. He was reportedly kicked all over his body after having been immobilized. He then reportedly lost consciousness and died before he could receive any medical treatment. An autopsy reportedly established that he had sustained fractures to three ribs and that he had previously had a heart attack. An investigation into his death was reportedly launched.

198. By letter dated 24 November 2003, the Government responded that as soon as Milutin Mironov had showed signs of bad health, his handcuffs were removed. As he fainted, an ambulance was reportedly called immediately. However, upon arrival at hospital, his death was confirmed. The Government reported that an operational group of the Sofia Directorate of the Ministry of the Interior carried out an investigation into the incident and did not allegedly find any visible signs of injuries on the body. An autopsy had been conducted and it had been established that he had died from a heart attack. A criminal case had been initiated in connection with his death against two officers from the 6th Police Station for a criminal offence under article 124(1) in connection with article 20 of the Penal Code (murder due to negligence). On 5 March 2002, the Sofia Military Court panel issued a verdict of not guilty in the case of the two officers. The Government stated that, following an appeal against this decision, the case was returned for a hearing by a different panel. At the time of the communication, the penal procedure was still pending.

199. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases initially transmitted to it in 1996 and 1997 regarding which no response had been received.

Follow-up to previously transmitted information

200. By letter dated 17 November 2003, the Government provided information on cases initially transmitted by the Special Rapporteur in 1996 (E/CN.4/1997/7, paras. 35-36) and 1997 (E/CN/1998/38, paras. 34-25) and recalled in his letter dated 8 October 2003.

201. Concerning **Martin Zagorov**, **Nedyalko Zagorov** and **Valentina Zagorova**, the Government reported that on 1 July 1997 an investigation was opened at the District Military Prosecutor's Office in Varna based on a complaint filed by

Valentina Zagorova. On 26 February 1998 an indictment was brought to the Varna Military Court for bodily harm and a case file was constituted. In 1999 a retired major was found guilty and sentenced for committing a crime under article 133 (2) in connection with article 55 (1) of the Criminal Code.

202. Concerning **Borislav Nedev** and **Georgi Yorgandzhiev**, the Government reported that an inquest was opened by the District Military Prosecutor's Office in Plovdiv and transferred on 14 March 2001 to the District Military Prosecutor's Office in Pleven, which ordered the prosecution abandoned. This decision was appealed before the Pleven Military Court, which reversed the Prosecutor's decision and transferred the case to the Military Court of Appeal in Sofia on 27 December 2002. The procedure was still going on when the Government transmitted its response and the case is expected to be heard by the Supreme Court of Appeal.

203. Concerning **Detelin Apostolov**, the Government reported that a complaint was filed by the alleged victim against a police officer for threats and beatings. The District Military Prosecutor's Office in Sofia declined to open an investigation.

204. Concerning **Iliya Dimitrov Gherginov**, the Government reported that the case was referred to the District Military Prosecutor's Office in Sliven to establish the cause of his death. Investigations were eventually abandoned on 11 May 1998 with no further appeal by Iliya Dimitrov Gherginov's relatives. The order to abandon the investigation stated that the cause of death had been established by two consecutive coroner's reports which were not contradictory.

205. Concerning **Vasil Dinkov Vasilev**, the Government reported that although the criminal prosecution was discontinued on 26 October 1995 by order of the District Prosecutor's Office in Stara Zagora, as of 14 February 2003, following the personal involvement of the Regional Prosecutor, the Regional Prosecutor's Office in Stara Zagora recommended that the criminal investigation continue.

206. Concerning **Desislav Pavlov**, the Government reported that in an appeal filed by his lawyer dated 18 July 1995 there was no claim of physical assault by police officers at the time of detention. The Government further explained that the prosecution did not give evidence based on his testimony.

207. Concerning **Assen Ivanov**, the Government reported that the case had been stalled in the District Investigation Service in Blagoevgrad until 9 January 2003, when an order was sent to the District Prosecutor's Office in Blagoevgrad to cease the investigation. The Government further reported that the case had been returned for further investigation as of 10 February 2003.

208. Concerning **Iliya Assenov Lambov**, the Government reported that the proceedings were abandoned on the grounds that no sufficient evidence was found. This decision was been appealed.

209. Concerning **Ilyan Veselinov Nikolov**, the Government reported that by order of the District Prosecutor's Office in Stara Zagora dated 26 February 1999, the investigation procedure was partially discontinued. This decision was not appealed by the relatives of Ilyan Veselinov Nikolov.

210. Concerning **Gancho Stefanov**, the Government reported that the two officers involved were exonerated in view of the fact that excessive force was used in a complicated operational situation and in order to prevent the commission of a serious criminal act and in view of the favourable personnel and character records of both officers. No appeal was lodged against this decision.

211. Concerning **Dimitur Velev**, the Government reported that no complaint about a physical assault on or about the date of 16 December 1995 had been found in the records of the District Military Prosecutor's Office in Sofia.

212. Concerning **Ahmed Mustafov**, the Government reported that on 20 June 1997 the District Military Prosecutor's Office in Varma did not start an investigation for lack of sufficient evidence. This decision was not been appealed.

213. Concerning **Kiril Yordanov**, the Government reported that the proceedings were abandoned by order of the Regional Prosecutor's Office in Panagjurishte on 2 July 1996. This decision was not been appealed.

214. Concerning **Lybcho Terziev**, the Government reported that the investigation was first suspended by order of the District Military Prosecutor's Office in Plovdiv on 9 February 1998. The proceedings had been reopened on 22 June 2001 by order of the Military Appellate Prosecutor's Office in Sofia and were still ongoing at the time the Government transmitted its response.

215. Concerning **Valentin Pektov Simenov**, the Government reported that an investigation was still ongoing at the time the Government transmitted its response. Further information was not available at that time due to a delayed reply from the Regional Prosecutor's Office in Bourgas and the Execution of Punishment Directorate of the Ministry of Justice.

216. Concerning **Rahmat Rezaszadeh Malek**, the Government reported that it was not able to provide information on this case since no complaint had been filed at the District Military Prosecutor's Office in Sofia.

217. Concerning **Ivan Vasilev Ivanov**, the Government reported that on 17 October 1996 the District Military Prosecutor's Office in Varna decided not to open an investigation on this case due to lack of sufficient evidence. This decision was not appealed.

218. Concerning **Stoyan Apostolov** and **Angel Dichev**, the Government reported that it was not able to provide information on this case since no complaint had been filed at the District Military Prosecutor's Office in Sofia.

Burundi

219. Par une lettre datée du 3 octobre 2003, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des droits de l'homme au Burundi, a informé le gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

220. **N.**, un orphelin de 14 ans originaire de la commune de Rutovu, province de Bururi, aurait été arrêté le 23 août 2001 et accusé d'avoir violé la fille de son employeur âgée de six ans. Cette accusation aurait été formulée une semaine après qu'il eut réclamé les trois mois de salaire qui lui étaient dus. Il aurait été détenu aux fins d'interrogatoire dans les locaux de la Police de sécurité publique à Rumonge, où on l'aurait frappé sur les mains pour le contraindre à signer des aveux.

221. **E. M.**, 16 ans, et d'autres enfants auraient été passés à tabac par des voisins du quartier Swahili à Gitega en janvier 2002 au moment de leur interpellation. Il aurait été arrêté car on le soupçonnait du viol d'une fillette. Il serait détenu à la prison de Gitega.

222. **S. N.**, 15 ans, aurait été appréhendé en mars 2000 dans la colline de Kagoma, commune de Taba, province de Gitega, par ses voisins qui l'auraient accusé d'avoir incendié leurs maisons pendant une attaque menée par un groupe politique armé actif dans la région. Les voisins lui auraient brûlé les poignets et les chevilles avant de le livrer aux autorités. Celles-ci l'auraient placé en détention dans une cellule de la commune de Taba puis dans les locaux de la brigade de gendarmerie de Mwanzari où on l'aurait frappé sur les articulations pour le contraindre à avouer son appartenance à un groupe politique armé. Il purgerait une peine de 10 ans à la prison de Gitega.

223. **S. N.**, 14 ans, aurait été arrêté à Bujumbura en juillet 2001. Les gendarmes auraient braqué une kalachnikov sur lui en menaçant de le tuer, et lui auraient mis un pneu autour du cou et menacé d'y mettre le feu. Il aurait par la suite été transféré dans un camp de l'armée et de la gendarmerie connu sous le nom de SOCARTI, à Bujumbura, où il aurait été passé à tabac. Ce cas aurait été évoqué par une organisation internationale de défense des droits de l'homme auprès de l'Auditeur militaire de Bujumbura en mars 2002 et du procureur militaire en juillet 2002 ainsi qu'auprès du Ministre de la défense.

224. **E. K.**, un membre des forces armées burundaises de 17 ans, aurait été arrêté sur ordre du commandant de la 2^e compagnie du 56^e bataillon d'infanterie, car on l'aurait soupçonné d'avoir vendu son fusil. Bien qu'il serait indiqué dans son dossier qu'il avait été arrêté le 17 juillet 2001, veille de son transfert à la prison de Bururi, le Rapporteur spécial avait été informé qu'il aurait en fait été interpellé le 10 février 2001. Il aurait été détenu pendant deux jours dans le camp militaire de Bururi, où il aurait été ligoté et battu à coups de pied. Il aurait par la suite été emmené à la brigade de Bururi, où il aurait été détenu jusqu'en juillet 2001 et où il aurait été battu à nouveau. En mars 2002, il n'avait toujours pas été interrogé par l'Auditorat militaire. D'après les renseignements reçus, il aurait été recruté par l'armée en décembre 1999, à l'âge de 15 ans, avec une quarantaine d'autres élèves de l'école primaire de Minyare, province de Cankuzo.

225. **J. M.**, 15 ans, aurait été arrêté pour un contrôle d'identité par des soldats à la position militaire de Mabanda, province de Makamba, le 16 mai 2000. Comme il n'avait pas de documents d'identité, il aurait été ligoté avec une corde, roué de coups et blessé avec un couteau au bras droit. Quelques heures plus tard, il aurait été remis au centre de détention de la gendarmerie de la ville de Makamba, où il aurait été frappé à plusieurs reprises avec des brodequins. En août 2000, il aurait été formellement inculpé et incarcéré dans la prison de Rutana. Il serait détenu depuis

février 2001 à la prison de Mpimba, à Bujumbura, où il attendrait d'être jugé. Il serait accusé d'appartenance à un groupe politique armé. Il souffrirait de violents maux de tête causés par les coups qu'il aurait reçus alors qu'il se trouvait aux mains des soldats et des gendarmes.

226. **B. M.**, une jeune fille de 17 ans originaire de la colline de Kiwesi, commune de Kiremba, dans la province de Ngozi, aurait été inculpée d'«infanticide» pour avoir prétendument avorté. Elle serait maintenue en détention dans la prison spécialisée de Ngozi dans l'attente de son procès depuis février 2002. Malgré son faible état de santé psychique et physique, elle ne recevrait pas les soins, la protection et toute l'assistance individuelle nécessaires. Elle ne recevrait quelques soins médicaux qu'à travers une organisation non gouvernementale de défense des droits de l'homme. **B. M.** aurait déjà comparu à deux reprises devant le tribunal à Ngozi sans comprendre le déroulement de la procédure dont elle était l'objet, et sans être assistée par un avocat. Elle aurait été condamnée lors d'une audience publique le 18 juin 2003.

227. Par cette même lettre, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements supplémentaires sur **Benoît Bigirimana**, commerçant; **Dieudonné Harerimana**; **Elias Kabura**, boulanger; **At Saidi Manyirakiza**; **Samuel Mbazumutima**, garagiste; **Onesphore Ndayitwayeko**, commerçant; **Luc Ndikuriyo**, sa femme, **Pétronile Banyekazo**, et leurs deux enfants, de 15 et 2 ans; **Nduwayo**, commerçant; **Vital Niyonguro**, commissaire politique du Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (CNDD-FDD Nkurunziza), un groupe armé; **Soulemane Nikoyagize**, chauffeur de taxi; **Freddy Nisubire**, pharmacien; **Elisa Ntakiyanira** et son employé, **Piri**; **Ndayisaba Johnson** (également connu sous le nom de **Toto**), électricien, et **Arias Wakya**. Ces personnes avaient fait l'objet d'un appel urgent conjoint envoyé par le Rapporteur spécial sur la question de la torture et la Rapporteuse spéciale sur la situation des droits de l'homme au Burundi le 29 juillet 2003 (voir ci-dessous). D'après ces renseignements, Boniface Nduwayo, Pétronile Banyekazo et ses enfants auraient été libérés le 26 juillet. Elisa Ntakiyanira et Piri, son employé, auraient tous deux été remis en liberté le 25 juillet. Pétronile Banyekazo et son fils de 15 ans auraient été roués de coups au cours de leur détention. Tandis que Dieudonné Harerimana et Soulemane Nikoyagize et Onesphore Ndayitwayeko seraient détenus à la brigade de Makamba. Les autres personnes citées ci-dessus auraient été transférées à la prison de Rumonge, dans le sud du Burundi. Ndayisaba Johnson aurait été passé à tabac avant son transfert. Elias Kabura aurait été libéré.

228. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 2001 et 1999, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

229. Le 31 janvier 2003, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire et la Rapporteuse spéciale sur la situation des droits de l'homme au Burundi concernant **A. N.**, 12 ans, qui, d'après les renseignements reçus, se trouvait en détention sans inculpation à la prison centrale de Mpimba, à Bujumbura. Il aurait été arrêté en avril 2002 près de son domicile, dans le secteur de Gatora, province de Bubanza, soupçonné d'être impliqué dans le meurtre d'un membre des Gardiens de la paix, une

milice gouvernementale. Le 26 août 2002, il aurait été transféré dans la prison centrale de Mpimba, située à quelque 40 km de son domicile. Dans son dossier, on aurait inscrit qu'il avait 20 ans, ce qui aurait été fortement contesté. Bien qu'à la prison centrale de Mpimba les mineurs disposeraient d'un espace séparé pour dormir la nuit, pendant la journée, ils se trouveraient avec les détenus adultes et, de ce fait, pourraient facilement être victimes de violences. Beaucoup d'enfants détenus qui sont isolés de leurs familles souffriraient de malnutrition, car tous les prisonniers devraient compter sur la nourriture apportée par leurs proches pour compléter la maigre ration alimentaire fournie par la prison.

230. Par une lettre datée du 15 avril 2003, le gouvernement a informé le Rapporteur spécial qu'A. N. avait été libéré le 17 février 2003.

231. Le 29 juillet 2003, le Rapporteur spécial a envoyé un appel urgent conjoint avec la Rapporteuse spéciale sur la situation des droits de l'homme au Burundi concernant **Benoît Bigirimana, Dieudonné Harerimana, Elias Kabura, At Saidi Manyirakiza, Samuel Mbazumutima, Onesphore Ndayitwayeko, Luc Ndikuriyo**, sa femme, **Pétronile Banyekazo**, et leurs deux enfants, de 15 et 2 ans, **Nduwayo, Vital Niyonguro, Soulemane Nikoyagize, Freddy Nisubire, Elisa Ntakiyananira** et son employé, **Piri, Toto**, ainsi qu'**Arias Wakya**. Ces personnes auraient été arrêtées entre le 24 juin et le 22 juillet 2003 dans la ville de Makamba et ses alentours et seraient détenues au secret à la gendarmerie de Makamba où il leur aurait été interdit de recevoir des visites depuis le jour de leur arrestation. Pétronile Banyekazo et ses deux enfants se trouveraient enfermés dans une cellule surpeuplée qu'ils partageraient avec approximativement 30 hommes. Un des détenus, At Saidi Manyirakiza, aurait été fortement frappé au cours de cette détention.

232. Le 31 octobre 2003, le Rapporteur spécial a envoyé un appel urgent conjoint avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire concernant la situation de **Moussa Ndikumana, Berchmans Nsaguye, Alexandre Jamboryiza, Shabani Nkeshimana, Michel Bigirimana, Moussa Mutama, Karim Niyonsaba** et **Stany Hatungimana**. Ils auraient été arrêtés le 15 septembre 2003 dans la province de Ngozi par des membres des forces armées du Burundi après avoir été soupçonnés d'avoir des liens avec le CNDD-FDD, un des principaux groupes armés de l'opposition. Suite à leur détention, ils auraient été maintenus au secret dans les camps militaires de Ngozi, où ils auraient été violemment battus et n'auraient pas reçu les soins médicaux adéquats. Vers le 30 septembre 2003, à la suite de plusieurs tentatives de la part du procureur de la province de Ngozi de mener des enquêtes sur ces cas, ces hommes auraient été conduits à la gendarmerie de la brigade de Gatumba, dans la province de Bujumbura rurale, où certains d'entre eux auraient été soumis à des mauvais traitements. Le 23 octobre 2003, ils auraient été conduits au camp militaire de Muzinda, à Bujumbura. Des craintes avaient été exprimées selon lesquelles ces transferts successifs se réaliseraient dans le but d'empêcher l'accès aux détenus par des membres du pouvoir judiciaire et des observateurs indépendants.

Cambodia

233. Par une lettre datée du 13 octobre 2003, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a informé le gouvernement qu'il avait reçu des renseignements selon lesquels **Eath Oeurn** aurait été arrêté pour vol le 26 juillet

2001, dans le district de Ba Phnom dans la province de Prey Veng, et serait décédé trois jours plus tard. Son corps aurait présenté de nombreux hématomes. À partir de photographies qui lui auraient été transmises, un médecin légiste aurait conclu que Eath Oeurn avait reçu des coups avec un objet non contondant au niveau de la tête, du tronc et des extrémités inférieures et que des blessures crâniennes seraient probablement la cause du décès. Il est rapporté que, le 25 février 2002, le procureur de Prey Veng aurait mis deux policiers en accusation pour homicide volontaire, mais il est allégué que les accusés n'auraient pas été arrêtés.

Observations

234. Le Rapporteur spécial voudrait attirer l'attention sur certaines préoccupations exprimées par le Comité contre la torture (CAT/C/CR/30/2, par. 6), en particulier par les allégations nombreuses, concordantes et persistantes faisant état d'actes de torture et autres peines ou traitements cruels, inhumains ou dégradants commis par des membres des forces de l'ordre dans les postes de police et dans les prisons.

Cameroon

235. Par une lettre datée du 20 août 2003, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a informé le gouvernement qu'il avait reçu des renseignements sur la situation du Mouvement pour la défense des droits de l'homme et des libertés (MDDHL), en particulier sur deux de ses membres, **Blaise Yacoubou** et **Aminou Mohamadou**, et de leur président, **Abdoulaye Mathe**. Blaise Yacoubou et Aminou Mohamadou auraient été détenus à la brigade des recherches de Maroua du 11 au 13 août 2003, alors qu'ils s'y étaient rendus pour récupérer leurs pièces d'identité. Au cours de leur incarcération, ils n'auraient été autorisés ni à boire ni à manger et ils auraient été remis en liberté dans un état de santé précaire. Le 17 juin 2003, Abdoulaye Mathe aurait également été arrêté sans mandat et serait resté en garde à vue au poste de police judiciaire de Maroua pendant deux jours, sans avoir accès à un avocat.

236. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 2002, 2001 et 1998, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

237. Le 26 mai 2003, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la vente d'enfants, la prostitution des enfants et la pornographie impliquant des enfants, a envoyé un appel urgent concernant la situation d'enfants dits «sorcières» qui auraient été abandonnés par leurs parents aux soins du «**Centre de ré-éducation civique**» d'un marabout dans le quartier Doualaré à Maroua. Les enfants y seraient forcés, chaînes aux pieds, de casser et ramasser du gravier sur la montagne plusieurs fois par jour et subiraient des mauvais traitements. Suite à leur évasion de ce centre durant la nuit du 25 janvier 2003, huit enfants auraient été retrouvés par le marabout tandis que cinq autres auraient été hébergés au siège social du MDDHL, à savoir **H. B.**, 12 ans, **M. B.**, 14 ans, **Y. A.**, 16 ans, **M. A. B.**, 17 ans, et **A. B.**, 17 ans. Des

poursuites judiciaires auraient été entreprises contre le Marabout, mais auraient par la suite été abandonnées.

Suite donnée aux plaintes signalées dans des communications précédentes

238. Par une lettre datée du 11 mars 2003, le gouvernement a répondu à un appel urgent envoyé par le Rapporteur spécial conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Président-Rapporteur du Groupe de travail sur la détention arbitraire le 10 octobre 2002 (E/CN.4/2003/68/Add.1, par. 271). Le gouvernement a informé qu'**Edwin Linfenyuy**, membre du *Southern Cameroon National Council* (SCNC), avait été appréhendé suite à une dénonciation selon laquelle il avait participé à l'assaut de la brigade de Jakiri, en mars 1997. Son arrestation avait conduit à celle d'autres membres du SCNC nommés dans l'appel urgent mentionné ci-dessus: **Nchendze Henry, Tobias Kongnso, Joseph Jumbah** et **George Shinyuy**. Ce dernier serait décédé, d'après un certificat médical, à la suite d'un arrêt cardiaque consécutif à une mydriase, conséquence d'un diabète non médicalement suivi. Aucune trace de sévices corporels n'aurait été trouvée sur son corps. Les autres personnes citées ci-dessus auraient été amenées devant un tribunal militaire. Elles auraient déclaré ne pas avoir subi de torture. Elles auraient cependant déploré des humiliations liées à des travaux internes en milieu carcéral et la mauvaise nourriture de la prison. En matière de santé, le gouvernement a informé que la prison intervient dans la limite des moyens disponibles. Agbor Nfaw, Enow Enow Joseph, Tabe Daniel Agbor, Tambe Valery Atem et Ojong Samuel Ndip avaient été libérés une fois terminées les enquêtes judiciaires.

Observations

239. Le Rapporteur spécial voudrait attirer l'attention sur certaines préoccupations exprimées par le Comité contre la torture (CAT/C/CR/31/6, par. 4), en particulier par des informations relatives à l'usage systématique de la torture dans les commissariats de police et de gendarmerie, après l'arrestation; des informations faisant état de tortures, de mauvais traitements et de détentions arbitraires commis sous la responsabilité de certains chefs traditionnels, avec parfois l'appui des forces de l'ordre.

Canada

Follow-up to previously transmitted communications

240. By letter dated 20 March 2003, the Government responded to an urgent appeal sent by the Special Rapporteur on 18 November 2003 concerning **Manjinder Pal Singh** (E/CN.4/2003/68/Add.1, para. 276). The Government reported that the urgent appeal was not received in time to allow consideration before Manjinder Pal Singh's deportation. The Government further reported that Manjinder Pal Singh failed to establish substantial grounds for believing that he would face torture upon his return to India. In Canada, he had access to the following forums for risk assessment: the refugee determination process before an independent tribunal; an application for permanent residence from within Canada on humanitarian and compassionate grounds; and an application for protection (PRRA) by a specialized officer of Citizenship and Immigration Canada. He also received an assessment by a judge of

the Federal Court of Canada, Trial Division, of potential “irreparable harm” if returned to India. He did not seek to avail himself of a judicial review of the Convention Refugee Determination Division (CRDD).

Central African Republic

241. Par une lettre datée du 17 novembre 2003, le Rapporteur spécial a rappelé au gouvernement un cas qu’il avait envoyé en 2001, au sujet duquel il n’avait pas reçu de réponse.

Chad

242. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu’il avait envoyés en 2002, 1999 et 1997, au sujet desquels il n’avait pas reçu de réponse.

Chile

243. Por carta de fecha 4 de junio de 2003, el Relator Especial notificó al Gobierno que había recibido información según la cual **Eduardo Zamora, Miguel Álvarez, Elvis Maldonado, Salvador Villarroel, Juan A. Bally y Claudio**, travestís, habrían sido detenidos el 7 de febrero de 2003 por personal de la Tercera Comisaría de Carabineros. Habrían sido golpeados y obligados a desnudarse. Les habrían arrojado agua fría y luego no les habrían permitido cubrirse ni secarse, pasando la noche entera en esas condiciones hasta ser liberados a la mañana siguiente. Todo el procedimiento habría contado con la aprobación y supervisión de un comisario. A las personas detenidas se les habrían imputado “ofensas al pudor y a las buenas costumbres”. El 8 de febrero de 2003, otros cuatro travestís habrían sido golpeados y luego arrestados en el mismo lugar. También habrían sido liberados a la mañana siguiente y acusados de “ofensas al pudor y las buenas costumbres”.

244. Por carta de fecha 2 de octubre de 2003, el Gobierno confirmó que seis personas fueron detenidas el 8 de febrero de 2003 por ofensas al pudor y las buenas costumbres cuando se encontraban ofreciendo comercio sexual. Estas personas fueron conducidas a la Tercera Comisaría de Los Andes, donde se encontró un cuchillo, un cortaplumas y una cadena metálica entre sus vestimentas. Consecuentemente, fueron encerradas en los calabozos de la comisaría. Seguidamente los detenidos fueron puestos a disposición del Primer Juzgado del Crimen de Los Andes sin que presentaran al momento de salir de la Unidad Policial algún tipo de reclamo en contra del personal policial. Al día siguiente, cuatro de estas seis personas fueron detenidas nuevamente por los mismos motivos. Durante la segunda detención Claudio Pérez Escobar y Miguel Álvarez Maureira opusieron resistencia y los agentes tuvieron que hacer uso racional de la fuerza. Los detenidos tuvieron que ser llevados al hospital San Juan de Dios de Los Andes con el objeto de constatar sus lesiones. Estas fueron caracterizadas de leves por el médico de turno que los atendió. Seguidamente fueron trasladados a la Tercera Comisaría de Los Andes y al Centro Penitenciario de Los Andes antes de ser puestos a disposición del tribunal competente.

Observaciones

245. El Relator Especial quisiera llamar la atención sobre algunos de los motivos de preocupación expresados por el Comité de los Derechos del Niño (CRC/C/15/Add.173, párrs. 31 y 53) por el hecho de que el castigo corporal de los niños siga siendo socialmente aceptable en Chile y aún se practique en las familias, en las escuelas y en otras instituciones. Asimismo, toma nota de que la legislación de Chile no prohíbe expresamente el castigo corporal. El Comité observó con inquietud que la detención no se utiliza sólo como último recurso, especialmente en el caso de los niños pobres y socialmente desfavorecidos, y que a menudo se recluye a menores en centros de detención de adultos.

China

246. By letter dated 4 June 2003, the Special Rapporteur advised the Government that he had received information concerning the following Falun Gong cases.

247. **Cao Zhenqi** was reportedly arrested on 18 February 2000, when he allegedly went to Beijing to appeal to the Government on behalf of Falun Gong practitioners. He was reportedly taken to the Taerfu County Police Station, where he was allegedly severely beaten with a baton on his face and ribs by the head of the police station. He was reportedly arrested a second time in July 2000 and beaten by police officers until he allegedly lost consciousness.

248. **Xiang Chen** was reportedly arrested on 18 April 2000 for holding up a banner saying, "Falun Dafa is Good" in Tiananmen Square, Beijing. She was reportedly sent to Huangshi City No.1 Labour Camp, where police allegedly handcuffed her ankles and forced her to stay seated on a bed to prevent her from sitting cross-legged on the floor to practise Falun Gong exercises. The shackles reportedly cut into her flesh. She was released on bail 15 days later. She reportedly died on 8 September 2002 as a result of the treatment she had been subjected to.

249. **Li Binghua** reportedly went to Beijing in May 2000 to appeal to the Government on behalf of Falun Gong practitioners. He was allegedly arrested and sentenced to one year of forced labour at Shayang Labour Camp, where he was allegedly deprived of rest and forced to remain in an awkward positions for prolonged periods. He was allegedly frequently beaten by four inmates at the instigation of the camp officers. He was also allegedly locked in a solitary confinement cell for prolonged periods.

250. **Xie Yufeng** was reportedly subjected to electric shocks at the Tuanhe Labour Camp on 19 May 2000, three days after he allegedly started a hunger strike to protest his treatment in the camp, and on 22 June 2000. As a result, his whole body was allegedly swollen, blistered and festering. As his arms became swollen and his wrists were badly injured, the camp guards reportedly used strips made from a bed sheet to tightly bind his arms and legs, causing him additional pain. A guard reportedly stepped on his chest and head and pressed him into the mud. As a result, he reportedly had difficulty breathing, his face was allegedly burnt and he reportedly experienced difficulty walking and standing up.

251. **Sun Shujie** (f), a 45-year-old resident of Jianshan District, Shuangyashan City, Heilongjiang Province, went to Beijing in June 2000 to appeal to the Government on behalf of Falun Gong. She was reportedly arrested and escorted back to her company's detention centre. She was allegedly severely beaten by two policemen and sentenced to one year of forced labour. She was reportedly arrested again in Beijing on 2 September 2001 and escorted back to her company's detention centre, where she was reportedly locked up in a small cell for five days. She was allegedly forced to do heavy labour, which caused her to haemorrhage in October 2001. After her release on 26 December 2001, it is said that four policemen broke into her home and, despite her weak physical condition, allegedly dragged her down the stairs by the feet and threw her into a police van. She was reportedly then detained in the Shuangyashan City Detention Centre. During her detention, Sun Shulie reportedly went on a hunger strike in protest.

252. **Huang Tianming**, from Liulin Village, Sichuan Province, was reportedly arrested on 29 June 2000, taken to the conference room of the village government building and handcuffed to a chair. His face and upper part of the body were reportedly wrapped with poisonous fresh hemp. He was also reportedly beaten with a foot-long bamboo stick for over two hours. As a result, his face was allegedly swollen and his body covered with bruises and other injuries.

253. **Zhang Qingshu** and **Zhong Sufang** (f), were reportedly arrested for practising Falun Gong and taken to the police station of Wenjiang County on 29 June 2000. Zhang Qingshu was reportedly handcuffed, hung up by his wrists until he barely touched the ground, beaten with batons and wooden clubs and whipped with poisonous hemp until he fainted. He was reportedly left hanging until the following day. Zhong Sufang was allegedly subjected to a similar treatment and forced to stand on hemp leaves in bare feet.

254. **Zhang Pinghua** (f) was reportedly arrested on 21 July 2000 while she was going to Beijing to appeal to the Government on behalf of Falun Gong practitioners and sent to the Qingdao Administrative Office. She was allegedly severely beaten upon her arrival, in particular, on her face, head, chin, chest, shoulders and neck. Her head was allegedly slammed against a wall. She was reportedly pushed down onto the floor and officers allegedly stepped on her head and kicked her face. She reportedly sustained bruises and swollen wounds all over her body.

255. **Hao Aitong** (f) was reportedly sent to Jia City Labour Camp on 25 July 2000 for refusing to renounce Falun Gong. She was allegedly placed in a cell too small to stand, sit or lie down in, where she was therefore forced to squat. As a result, her legs allegedly became paralyzed and ulcerated from the lack of blood circulation.

256. **Wang Hongsheng, Ms. Sui and 17 other Falun Gong practitioners** from Taitou township, Shandong Province, were reportedly arrested as they were allegedly travelling to Beijing to appeal on behalf of Falun Gong practitioners in July 2000. During their detention, they were reportedly beaten with clubs by 20 people led by the local secretaries of the Communist Party Committee, forced to lie on a scalding cement surface and exposed to the sun six hours a day and confined in a garage with no airflow and very high temperatures. They were allegedly deprived of food and water for three consecutive days. Wang Hongsheng, who was reportedly suspected of

being the organizer of the demonstrations, was allegedly tied to a tree with iron cables. His head was allegedly covered with a plastic bag and he was reportedly beaten with wooden sticks and leather whips by some 10 people. His chest and stomach were allegedly burnt with cigarettes. He reportedly lost consciousness.

257. **Luo Xiaoyu** (f) was reportedly detained in the summer of 2000 at the Nanmusi Women's Labour Camp, where she was allegedly frequently beaten with spiked clubs by guards in order to force her to renounce Falun Gong. She reportedly lost consciousness several times. As a result of the treatment she was allegedly subjected to, her body was reportedly swollen, her buttocks torn and bleeding and pus kept running down her legs.

258. **Li Fengqi** (f) and **You Quanfang** (f), both detained at Nanmusi Women's Labour Camp of Zizhong City, Sichuan Province, were reportedly severely beaten with spiked wooden clubs in July 2000 by guards and inmates after the former allegedly ordered the latter to strip the two women.

259. **Ye Xinghua**, a man from Sichuan Province detained at Jiulong town government building, was reportedly arrested along with other Falun Gong practitioners on 25 July 2000. Under the order of the head of the police station, police officers allegedly used wire and hemp stalks to whip them, as a result of which many detainees, including Ye Xinghua, reportedly fainted. His whole body allegedly became swollen. While he was unconscious, he was allegedly handcuffed to a tree for four hours in high temperatures.

260. **Huaiyi Niu** was reportedly detained in the Daqing Forced Labour Camp in August 2000, allegedly without due process. While in detention in the labour camp, he was reportedly subjected to severe ill-treatment and forced labour. As a result, his health allegedly deteriorated quickly. He reportedly died within a month of his release in April 2001.

261. **Zhu Junxiu** (f) was reportedly arrested on 14 October 2000 by plain-clothes police from Xiaojia Village Police Station for distributing Falun Gong materials. She was reportedly first detained at the Xiaojia Village Police Station where she was locked in a dark tiny cold cell for two days. On 16 October 2000, she was reportedly transferred to the Chongzhou City Detention Centre where she was reportedly beaten on the face and temples and dragged by the hair, which caused her to lose consciousness twice. Four days later, she was allegedly transferred to the Huaiyuan Police Station where she was reportedly detained for 40 days in a small dark room whose floor was covered with urine and faeces, where there were no windows, and where she was not allowed to wash or use the toilet. The Chengdu City Police Station allegedly sentenced her to one year of forced labour at the Nanmusi Women's Labour Camp where she was reportedly locked up for eight months.

262. **Han Guiyan**, **Li Xiuzhen** and **Zheng Sufen**, three women from Liaoning Province, were reportedly arrested in October 2000 and detained at the Huludao Detention Centre of Liaoning Province. Han Guiyan was reportedly beaten on a daily basis on her buttocks by two guards with steel-cored plastic clubs. Zheng Sufen was also allegedly beaten in a similar way by the same guards. Li Xiuzhen was reportedly

knocked to the concrete floor and continuously beaten, as a result of which she allegedly had a heart attack.

263. **Mr Xiao** was reportedly subjected to the so-called “water dungeon” on 30 December 2000 at the Huairou Detention Centre in Beijing. This consists of locking a naked person into a small iron cage with spikes on all sides. The cage is then lowered into filthy water up to the victim’s chest or neck in a completely dark room. The victim may be locked in the cage for days or even weeks, and urine and faeces are excreted into the water.

264. **Wang Xiu** (f) was reportedly sent to Heizuizi Labour Camp in December 2000 because she did not want to denounce Falun Gong. She was reportedly deprived of sleep, stripped naked, suspended between two chairs, forced to stretch her arms upwards and subjected to electric shocks.

265. **Liu Guihong**, a woman from Heilongjiang Province, was reportedly arrested on 31 December 2000 while she was on her way to Beijing, and detained in Shanhaiguan City. Police reportedly tied her hands behind her back with one hand pulled up over the shoulder and the other pulled up from the lower back. She was then reportedly severely beaten, kicked and pushed against a wall, as a result of which she allegedly fainted.

266. **Sui Cun** (f) was reportedly taken to the Heijinhe township police station on 14 January 2001, where she was allegedly beaten by the head of the police station, allegedly in an attempt to force her to give up Falun Gong. She was later reportedly sent to the criminal squad where she was allegedly subjected to further beatings. The police reportedly detained her eldest son for 24 hours and hit him in the face over 30 times. Sui Cun was reportedly held without charges at the criminal squad for five days and four nights, during which she was continuously beaten. She was reportedly handcuffed to the heating pipes for prolonged periods. She was allegedly also denied sleep. She was reportedly sentenced to one year of forced labour in April 2001 and sent to the Jiamusi Detention Centre.

267. **Li Xin**, from Baoding City of Hebei Province, was reportedly arrested on 18 January 2001 and detained at the Xuanwu District Detention Centre in Beijing because he allegedly petitioned the Government on behalf of Falun Gong. He was reportedly beaten on sensitive parts of his body with high-voltage electric batons, and cold water and later boiling water were allegedly poured on him. He was allegedly whipped with thorny bamboo sticks, which were allegedly introduced into his anus. He reportedly started a hunger strike to protest against the treatment. Doctors reportedly suggested that his feet needed to be amputated. However, the detention centre officers allegedly took him out of the hospital and put him on a train to Baoding City.

268. **Xu Lihua** (f), detained at Wanjia Labour Camp, was reportedly beaten by camp guards on 24 January 2001. She was allegedly dragged by the hair to a solitary cell and locked in a so-called “iron chair” for eight days with her mouth sealed with tape.

269. **Chen Gang, Duan Peichen, Hu Chang'an, Zhang Dahai, Cui Xiangjun and Lu Changjun**, all detained in Beijing Tuanhe Labour Camp, were allegedly severely beaten in February 2001. Guards allegedly tied their hands behind their backs and pushed them under their beds with only their feet sticking out. According to the information received, other inmates took off their shoes and socks, tied their feet to small camp stools and beat the arches of their feet with the soles of plastic shoes until their feet turned blue. Lu Changjun was reportedly tied to a bed and beaten, as a result of which he has allegedly become paralyzed. The deputy director of the labour camp reportedly forced other inmates to testify that Lu Changjun broke his back falling down while he was mopping the floor.

270. **Zhang Guirong** (f) was reportedly sent to Wanjia Labour Camp on 14 February 2001, where she was allegedly placed in solitary confinement from 22 February to 9 March 2001, forced to stand for 17 to 18 hours a day and not allowed to sleep for 60 consecutive hours. She was allegedly handcuffed to the cell door for three days and two nights, and later hung up with her hands tied behind her back and only the tips of her feet touching the ground. On 19 June 2001 she was reportedly hung up again for 32 hours with her mouth sealed

271. **Yang Yufeng** (f), a medical doctor, was reportedly detained at the Houzishan Welfare Home on 19 November 2000, where she was allegedly forced to sit on very cold ground in her underwear while officers reportedly poured cold water over her body. During her seven-month detention, her health allegedly deteriorated and she became partially paralyzed.

272. **Zhao Jun** was reportedly arrested on 24 February 2001 by policemen from the Nanshan Police Station of Mudanjiang City. At the police station, sharp bamboo sticks were reportedly stuck into his fingers. As a result, he allegedly lost consciousness and he is since then unable to raise his right arm.

273. **Guo Yanbing** and his wife **Fei Yuenying**, residents of Caishan town, Huangmei County, Hubei Province, were reportedly arrested by the police on 6 March 2001 and taken on the following day to Caishan town police station, where Guo Yanbing was allegedly forced to lie half-naked on a cold floor and repeatedly beaten with wooden and rubber batons by eight policemen under the direction of the station's chief. The following day, he was reportedly handcuffed to a window and beaten again until he lost consciousness. A policeman reportedly grabbed the skin of his chest and pull it upwards as hard as he could while another policeman dug his fingers into his skin, pulling up and twisting it. Guo Yanbing allegedly lost consciousness again. He and his wife were reportedly subsequently taken to Huangmei County First Detention Centre. Guo Yanbing was reportedly sentenced to one year in a labour camp and Fei Yuenying was held in detention without charges or trial for nine months before being released.

274. **Yang Xianfeng** (f) and **Zhu Juying** (f), from Shashi City, Hubei Province, were reportedly arrested in March 2001 and held in police custody for nine days. They were reportedly prevented from sleeping by constant bright lights and forced to stand still or remain outside in very low temperatures for prolonged periods. They were reportedly beaten while being forced to sit on a high stool, as a result of which Yang Xianfeng's left arm was fractured. Her eyes were also reportedly doused with water

mixed with red pepper and a lit cigarette was stuffed up her nose, causing her to lose consciousness. She was allegedly tied to a wooden board in a spread-eagle position. Nine days after their arrest, both women were reportedly transferred to Shashi detention centre. In November 2001, Yang Xianfeng and other Falun Gong practitioners reportedly went on a hunger strike to protest their detention. Three of her lower teeth were reportedly pulled out with pliers in order to force-feed her through a tube.

275. **Hou Zhanhai, Li Qiang, Li Qingru, Niu Junhui, Ji Wentao, Fu Hongwei and Guo Zhende**, all detained at Jilin labour camp, reportedly went on a hunger strike on 13 March 2001 to protest the allegedly inhuman treatment at the camp. According to the information received, they were stripped and severely beaten with electric batons by more than 20 camp guards. Niu Junhui was reportedly subsequently transferred to a hospital due to his critical condition. It was reported that Fu Hongwei had already been beaten by other prisoners at the instigation of guards. Pins were reportedly poked into his fingers, his feet were allegedly burned with cigarettes and he was forced to swallow lit cigarettes. Paper rolls were reportedly inserted into his nose and burnt.

276. **Zhao Fengxia** (f) was reportedly severely kicked by a guard at Wanjia Labour Camp on 24 May 2001. As a result, she allegedly suffocated and urinated in her pants and lost consciousness. On other occasions, she was reportedly forced to sit on a hard stool and forbidden to move for long periods. She was also reportedly tied to a bedpost in such a position that, as a result, she could neither stand straight up nor squat down for five days.

277. **Li Haiyan** (f) was reportedly sent along with 60 other female Falun Gong practitioners to the male section of the Wanjia Labour Camp on 24 May 2001. She and seven other women were reportedly hung up on the railing of a top bunk with their arms tied behind their backs and their feet above the ground. As a result, she reportedly fainted and her hands were allegedly numb for days.

278. **Yuzhi Wang**, a 46-year-old businesswoman from Harbin City, was reportedly first arrested around the Chinese New Year of 2000, when she went to Beijing to appeal on behalf of Falun Gong. While in detention, she was allegedly beaten by other inmates. She was reportedly arrested a second time on 15 July 2000. She was allegedly handcuffed and beaten during interrogation. She was reportedly arrested a third time in July 2001 and accused of having connections with "foreign (subversive) forces". She was initially detained at the Yaziquan Second Detention Centre of Harbin City, and later transferred to Wanjia forced labour camp on 6 November 2001. According to the information received, when she decided to start a hunger strike, she was force-fed with cold water mixed with cornflour by doctors who allegedly used a steel clamp to keep her mouth open and violently inserted a thick rubber tube through her nose into her stomach, as a result of which she reportedly suffered serious bleeding and sustained bruises. Other inmates were allegedly ordered to beat her. After nine months in the camp, her health condition seriously deteriorated and she was eventually released. However, following her recovery, she was reportedly ordered to return to the labour camp. She was alleged to have fled to the United Arab Emirates and subsequently to Canada. Since she publicized her story, her relatives in

China have allegedly been subjected to threats and her youngest brother was arrested in January 2003.

279. **Liu Aiqing** (f) was reportedly arrested by the police on 4 June 2001 in Majia village of Shunjiaji town, punched and slapped several times by police officers. She was reportedly beaten again for several hours on the evening of 6 June 2001 by six policemen, who were allegedly drunk. She was allegedly beaten with high-voltage electric batons, metal clubs and leather belts. She was reportedly transferred to a hospital in critical condition on the following day. A medical examination reportedly revealed many serious injuries, including haematuria, hypotension and dehydration. According to the information received, many blood clots were pumped out of her swollen legs and surgical drainage was performed. Plastic surgery was allegedly used to cover up evidences of the alleged treatment.

280. **Qi Yingjun**, a detainee at Wangcum Forced Labour Camp, was reportedly forced to sit on the so-called “triangle-ridged iron plank” and at the same time given electric shocks with batons in June 2001. According to the information received, the “triangle-ridged iron plank” is made of iron with very sharp triangular ridges. Individuals are reportedly forced to sit on it, which causes the buttocks to bleed and fester.

281. **Yang Xiuli** (f), along with other Falun Gong practitioners, were reportedly severely beaten by guards and subsequently dragged into solitary confinement cells on 18 June 2001 in the Wanjia Labour Camp. Yang Xiuli was allegedly hung up by her wrists for almost 48 hours, pulled by the hair and had her head slammed against an iron heater. She was reportedly not allowed to use the toilet.

282. **Peng Zhenhe** was reportedly sentenced to one year of labour camp for appealing to the Government on behalf of Falun Gong in 2001. He was reportedly shackled and confined in a small cage for days at Changlinzi Labour Camp. According to the information received, on 2 July 2001 he began a hunger strike that lasted 53 days, during which he was reportedly tied to a so-called “iron chair” and force-fed several times through a tube inserted through his nostrils. He is reported to have lost consciousness on several occasions as a result.

283. **Pan Juying** (f), from Huguo village, Hubei Province, was reportedly taken by the deputy director of the Public Security Bureau and a police officer to a guest house on the second floor of the National Tax Bureau on 10 August 2001. According to the information received, she was pinned to the ground and her toes were smashed. Her soles, ankles and calves were reportedly crushed. She was allegedly hung up by the back, whipped and slapped. Water was reportedly forced into her mouth while her nose was squeezed shut. On 11 August 2002 her hands were reportedly tied for 10 minutes in a bag in which there was allegedly a poisonous snake, which reportedly bit her.

284. **Tong Lijun** was reportedly arrested at the end of June 2001 and sent to Jinzhou Detention Centre, where he was allegedly forced-fed and made to drink large quantities of water. The guards pierced the skin on his back with threaded needles. They also allegedly pierced the outside part of his leg with rusty nails. The lower front part of his legs was reportedly hit with chunks of wood, which were allegedly also

used to press on the swellings. His penis was reportedly pierced at the level of the urethral orifice with needles and icy cold water was poured over it. Needles were also said to have been inserted under his fingernails and his toenails were allegedly smashed with chunks of wood.

285. **Cao Yingchun** (f) was reportedly sent to Wanjia Labour Camp where, on 19 July 2001, she was allegedly force-fed and beaten. On the following days, male convicts reportedly removed her from her cell by dragging her out by her hands and feet. She was reportedly beaten and force-fed again.

286. **Liu Zhengxing** was reportedly beaten by Cuijiayu town local authorities when in July 2001 he allegedly refused to put his fingerprints on a statement renouncing Falun Gong. He was reportedly beaten with wooden clubs and iron-cored rubber batons and boiling water was poured over his body.

287. **Han Haidong** was reportedly sentenced to forced labour in the Liaoyang Labour Camp where, on 13 September 2001, guards allegedly forced him to stand on a column made of seven bricks, cuffed his wrists to the top of a steel gate and left him in this position for hours. When he lost his balance, the bricks fell and he was allegedly left hanging in the air for more than one hour. Later on that day, a guard reportedly tied his wrists to the beams of the ceiling. On 15 September 2001, he was allegedly hung up the same way for the whole day. On the following day, an officer reportedly hung him on the wires of a telephone pole with six bricks under his feet. He was allegedly hung in various ways until 18 September 2001.

288. **Yang Chongyu** (f) was reportedly arrested in Beijing in October 2001 when she went to appeal on behalf of Falun Gong. She was reportedly detained for one month in the Wenjiang County Detention Centre and then transferred to the Wanchun Town Mental Hospital where she was forcefully given medicine and injected with different kinds of tranquilizers.

289. **Cui Qiuju** (f) was reportedly beaten by guards while she was detained at the Shibalihe Forced Labour Camp during December 2001. She was later sent to a hospital where it was allegedly discovered that her internal organs had been injured by the beatings and that she was suffering from kidney necrosis. Three months after her release, Cui Qiuju was reportedly arrested again, subjected to electric shocks and beaten with rubber batons.

290. **Li Yanming**, a woman from Changchun City, Jilin Province, was reportedly taken away from home on 25 January 2002 by police officers from Changchun City. On the following day, she was reportedly taken to a remote building, where she was allegedly forced to sit on the so called "tiger bench", which is a small iron bench on which the person's hands are tied together behind the back while his or her knees are also tied down. Hard objects are reportedly inserted under the tied legs, causing the legs to bend upward in an unnatural way that eventually causes them to break at the knees. Li Yanming was reportedly forced to sit straight up with her eyes looking straight ahead, her hands were reportedly placed on her knees and she was allegedly not allowed to turn her head, close her eyes, talk to anyone or raise her hand. She was reportedly beaten whenever she moved on the bench.

291. **Li Huiqi** (f) was reportedly arrested on 2 December 2001 by police from the Weiming Street Police Station in Shijiazhuang City. On 2 February 2002, she was reportedly sent to the Second Squad, Fourth Brigade of the Shijiazhuang Forced Labour Camp for a one-year term. There, her health was said to have deteriorated, as a result of the treatment she was allegedly subjected to by “610 Office” and labour camp officials. She was also allegedly denied family visits, although her relatives came to the centre many times. She was reportedly transferred to the People’s Hospital of Hebei Province on 8 April 2002 in a very critical condition. According to the information received, she was emaciated and many of her organs were malfunctioning and she had to be put on a ventilator. As she remained in serious condition, she was allegedly transferred to the Third Hospital of Hebei Province on 30 May 2002. She was reportedly released on 12 December 2002. She reportedly suffers from a urinary tract infection, pneumonia, and frequent muscle spasms since then. She allegedly cannot breathe without a ventilator. She is reported not to have received any financial support to cover her medical treatment.

292. **Mu Xiangjie** (f) was reportedly forced to stand outside in the snow for three days and nights in January 2002 in the Tianjin City Women’s Labour Camp, allegedly as a punishment for having refused to give up Falun Gong. As a result, her hands and feet were frozen and swollen, and then became so infected that she allegedly could not walk for one month. Mu Xiangjie was reportedly kept handcuffed for prolonged periods. The handcuffs allegedly cut into her flesh. According to information received, she was hung up during the day and sent to a solitary cell at night. While she was in the solitary cell, guards reportedly strapped her arms to the window and she was not allowed to sleep for a week. She was also reportedly beaten on her arms with electric batons.

293. **Zaixin Wei**, aged 63, was reportedly arrested on 7 February 2002 by policemen from the Fushun City Public Security Bureau Section 1 and Liangshizhan police substation and sent on the following day to Wujiabao Labour Camp, where he was allegedly denied family visits. In June 2002, he was reportedly sent to the Fushun City Jiangjun police substation No.2 detention centre to await his sentence. It is alleged that there, policemen incited other inmates to beat him. He was said to have been sent to the city hospital in July 2002 and later released. According to the information received, he died on 15 November 2002.

294. **Xinzhi Gu** (f) was allegedly arrested on 2 April 2002 because she was posting Falun Gong flyers around Miyi County, and severely beaten at the local police station. She was then allegedly sent to the Miyi detention centre where she was believed to have started a hunger strike to protest against her allegedly arbitrary detention. She was reportedly force-fed for one month. It is alleged that on 4 October 2002, she was sent to the hospital, where she reportedly died on the same night. Police reportedly cremated her body without the family’s permission.

295. **Gaidi Zhu**(f) was reportedly arrested by policemen from the Donsanmalu Police Station in the summer of 2002 and sent to a detention centre. She was allegedly beaten by other inmates and, as a result, her condition reportedly became very critical. She was allegedly released on “medical parole” but reportedly died on 3 October 2002.

296. By the same letter, the Special Rapporteur advised the Government that he had also received information regarding the following cases:

297. **Zhuo Xiaojun** was reportedly sentenced to death on 14 January 2000 on evidence which a court allegedly determined in January 1992 to be insufficient. According to the information received, he was initially sentenced to death in September 1990 based on self-incriminatory confessions allegedly extracted under duress, in particular beatings. The retrial allegedly begun in January 1993 but was adjourned for seven years whilst a supplementary investigation was undertaken. The trial resumed on 14 January 2000 and allegedly lasted a few hours. After 30 minutes deliberations, Zhuo Xiaojun was reportedly again sentenced to death. Allegations regarding the illegal means through which his confessions had been extracted were reportedly ignored by the procurator, despite the fact that procuratorate staff had reportedly seen him being beaten while suspended from a door and that the scars were reportedly still visible ten years later. The Fujian Province High People's Court reportedly heard his appeal on 28 November 2000 but, as far as the Special Rapporteur had been informed, no decision on the appeal had been announced.

298. **Chen Ke Yun** was reportedly arrested on 13 September 2001 in the context of the investigations following an explosion in the Discipline Inspection Commission of Fuqin City. He was reportedly taken on 13 September 2001 by criminal police team to Yi Jing Yuan Hostel built by the City Security Bureau. He was allegedly forced to sit on a chair, tightly handcuffed, and deprived of sleep for prolonged periods between 14 and 22 September 2001. He was allegedly beaten and kicked as well as hung up by the wrists on 22 September 2001 and the following days. On 26 September 2001 his hands were reportedly tied behind his back while his head and feet were placed on the ground. He was reportedly forced to stay in this position for prolonged periods. On 27 October 2001, his head was reportedly violently pulled into a WC and water was reportedly repeatedly poured on him. He was allegedly suspended upside down for several hours. His lawyer reportedly lodged a complaint in this connection.

299. By the same letter, the Special Rapporteur advised the Government that he had received information on the following individual case in the Tibet Autonomous Region:

300. **Anu** (f), a Tibetan tailor, was reportedly taken from her home in March 2001 and initially detained in Sitru, the provincial police detention centre in Lhasa before being assigned to serve three years at Tibet Autonomous Re-education Through Labour Centre (also known as Trisam Centre), in Toelung Dechen County in October 2001. Although the reasons for her arrest are not known, it is believed that she was accused of possessing "separatist material" from the Tibetan exile community in India. No charges had reportedly been brought against her yet. According to the information received, when she was 13 years old, she was severely hit by a military truck while walking to school in Lhasa, as a result of which her right leg had to be amputated. Despite her disability and the fact that she reportedly suffers from acute migraines, she was reportedly forced to work long hours at Trisam Centre and denied access to her family and to medical treatment. The Special Rapporteur had also received information according to which **prisoners in Trisam Centre** lived in poor and unsanitary conditions. Food and clothing were reportedly inadequate and of poor quality and prisoners were said to be forced to work long hours in harsh conditions.

They allegedly usually worked over eight hours a day and are only given one day off about once every two weeks. The work was very strenuous and many prisoners suffered from exhaustion. Finally, medical care was reportedly insufficient and administered only at a late stage.

301. By the same letter, the Special Rapporteur advised the Government that he had received further information on **Gao Shuyan**, whose case was included in his letter dated 2 September 2002 (see E/CN.4/2003/68/Add.1, para. 307), to which the Government responded by letter 9 January 2003 (see below). According to this information, she was reportedly locked in the so-called “iron chairs” for 28 days and then hung up by their wrists on their cell door for two days between 18 and 20 June 2001, while in detention at the Wanijia Labour Camp. She was reportedly later given a 20-month sentence.

302. By the same letter the Special Rapporteur advised the Government that he had received further information on **Wang Fang, Zuo Xiuyun and Li Yanhong**, whose cases were included in his letter dated 2 September 2002 (see E/CN.4/2003/68/Add.1, para. 320), to which the Government responded by letter dated 9 January 2003 (see below). According to this information, at Wanjiia Labour Camp, between 18 and 20 June 2001, several male prisoners were ordered to hold them down and to use knives and spoons to scrape their bodies, after which the three women were allegedly forced to lie down on the dirty floors of the solitary cell, where they were reportedly not provided with any spare clothes, bedding or food. Wang Fang was reportedly hung up for nearly 40 hours and beaten with an electric baton.

303. By letter dated 4 June 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following Falun Gong practitioners. By letter dated 12 November 2003 the Government responded to some of the cases.

304. **Qunhua Shu** (f), a 40-year-old resident of the 3rd community of Banshan Village in Suining City, Sichuan Province, was reportedly arrested on 20 July 1999 and detained for three months and subjected to ill-treatment. On 24 January 2000, local police officers reportedly ambushed her 5th floor apartment and tried to force her to turn over the Falun Gong materials she had in her possession. She was reportedly thrown out the window and died on the spot.

305. **Yu Lixin**, a woman detained at the Dalian City Detention Centre, was reportedly forced to stand with her hands clasped behind her head and, at the same time, bow down at a 90-degree angle while she was allegedly beaten, kicked and shocked on the back of her neck with an electric baton on 15 April 2001. On the following day, she was reportedly taken to a room on the 5th floor, apparently to clean it. Shortly after having been escorted to the room, she was allegedly seen falling from the window. She reportedly died as a result of the fall.

306. **Li Zetao** was reportedly sent to the Team No. 7 of Xishanping Labour Camp on 8 September 2000, where other inmates held on criminal grounds were allegedly ordered to beat him in order to force him to renounce Falun Gong. According to the information received, since 29 May 2001, he was forced to carry human faeces to a

dump site. He was also believed to have been deprived of rest at night. It is alleged that guards folded a newspaper into a hat and put it on his head, tied his arms to a stick to from a straight line, hung a barrel full of urine on each of his arms and forced him to hold up the barrels for hours. At the same time, they allegedly poked him with a broom in the back. He was also reportedly punched and kicked and a knife was allegedly inserted in his anus. He reportedly died on 30 May 2001, as a result of the ill-treatment he had been subjected to.

307. **Li Changjun** was reportedly detained on 16 May 2001 for printing information from the Internet on the banned Falun Gong movement. According to the information received, on 27 June 2001, the Wuhan police notified his family of his death. According to his mother, who is reported to have been allowed to see her son's body shortly after he died, his face and neck were black and blue, his fists were clenched, his teeth were out of place, his face was distorted and his whole back looked as if it was burned.

308. **Zhao Zichu**, detained at Wuxue City No. 1 Detention Centre, was reportedly released in July 2001, when the police saw him spitting up blood. He reportedly could not recover and died shortly afterwards.

309. **Chen Qiulan** (f) reportedly died in custody on 24 August 2001 at the Daqing City Detention Centre, Heilongjiang Province. Although a police officer allegedly made public statements according to which the cause of her death was a heart attack, other sources have allegedly reported that Chen Qiulan died due to the severe beatings she had been subjected to many times while in detention at the Daqing City Detention Centre and the denial of medical treatment.

310. **Deming Shen** was reportedly arrested while distributing Falun Dafa material in Shenzhen City. He was allegedly detained for six months in the Jiujietchun Detention Centre, where as a result of the treatment received, he allegedly suffered a mental breakdown and his health deteriorated. He reportedly died on 8 September 2002.

311. The Government informed the Special Rapporteur that Deming Shen was detained by the public security authorities in August 2001 for disturbing public order and on suspicion of breaking the law, but was released owing to a psychological impairment. On 8 September 2001 he had a renewed attack of psychosis and committed suicide by jumping from an upper storey. The claim that he died of ill-treatment while in detention has absolutely no basis in fact.

312. **Hongmin Li** (f) was reportedly arrested by officers of the Mudanjiang City police department on 16 September 2002. In the afternoon of the same day, she was allegedly beaten to death. According to the information received, the police dropped her corpse from a building and claimed that she committed suicide. Her body was allegedly cremated on 19 September 2002. The police department allegedly threatened her family members not to make public the case.

313. **Jingyi Wang** was reportedly arrested by police officers in February 2002 for producing Falun Fong materials and taken to Wafangdian City Detention Centre. In September 2002 he was reportedly sentenced to a five-year jail term. On

21 September 2002, 18 days after having been transferred to Liaoyang City's Huazi Jail in Liaoning Province, he was reportedly tortured to death.

314. **Ouyang Wei** was reportedly detained by three police officers from Lanzhou City, Anling District Police Station National Security Squad on 16 October 2002 and sent on the following day to the Gansu Province First Labour Camp (Ping'antai) to serve a one-year sentence. Other inmates allegedly beat his head severely. He allegedly died two days after his arrival. Needle marks on both of Ouyang Wei's wrists allegedly suggested that drug had been injected.

315. **Fengxia Xiong** (f) reportedly died on 13 October 2002, while in detention at the Lihuzhuang Town detention centre. She was allegedly arrested on 1 October 2002 with some other 18 Falun Gong practitioners from Gucheng Town. At the detention centre, she was allegedly hung from the ceiling and beaten with rubber hoses, wooden clubs and other weapons. During the night of 13 October 2002, she was allegedly force-fed until she died. According to the information received, Fengxia Xiong's family asked unsuccessfully for an autopsy report.

316. **Xiuqin Xing** (f) was reportedly sent to Songlindian Police Station on 15 September 2002, where she was allegedly handcuffed to a tree for three days and nights and hung for half a month, incapacitating the lower half of her body. It is alleged that on 16 November 2002, the police asked her relatives to pick her up and take her home but she died the next morning. When her family members went to the town Government to find out the reason for her death, the officials reportedly refused to meet with them.

317. The Government informed the Special Rapporteur that Xiuqin Xing died at home on 18 November 2002 of asthma and heart disease. The claim that her death resulted from forcible detention and torture by the public security authorities is not in accordance with the facts.

318. **Baochen Huang**, aged 65, was reportedly interrogated and arrested in July 2002 by four policemen from the Yushu City Public Security Bureau and transferred to the Weizigou Labour Camp in Changchun City, where other inmates were allegedly ordered to beat him and where he was allegedly refused food or water for days. according to the information received, on 7 November 2002, when the labour camp sent two policemen and a doctor to take him home, Baochen Huang was unable to recognize anyone and his whole body was swollen. His family reportedly sent him to the hospital immediately, where he died 20 days later.

319. **Hongyue Hu** (f) reportedly disappeared on 28 September 2002 along with another Falun Gong practitioner of near Funanhe River in Chengdu City. In November 2002, her work unit allegedly received a notice from the Public Security saying that she had died. It is reported that the policemen only showed a picture of her body and told her family that she had "died from starvation." On 19 November 2002, her body was cremated by the police without the consent of her family. The details of her death were allegedly still under investigation.

320. **Hongjie Shi** was reportedly beaten to death by policemen on 28 November 2002, when some Falun Gong materials were allegedly found at his place.

321. The Government informed the Special Rapporteur that Hongjie Shi was detained by the public security authorities in accordance with the law on 29 October 2001, on suspicion of lawbreaking. On 21 November he quarrelled with other suspected criminals in the same jail and was beaten unconscious; efforts at the hospital to save him were fruitless, and he died the following day. The law enforcement authorities dealt as the law requires with those who beat Shi up, and the jail personnel responsible were also punished. The claim that Shi was beaten to death by public security personnel is not in accordance with the facts.

322. **Rongzhen Jiang** (f) reportedly died on 20 November 2002 in the Ha'erbin Drug Rehabilitation Centre as a result of the treatment she was subjected to. The Centre reportedly claimed that she died of a heart attack. However, according to eyewitnesses, her body presented wounds and marks possibly left by electric shocks. There were allegedly also holes on her forehead and back.

323. **Zhixiang Luo** (f) and her husband, **Guohua Huang** were reportedly arrested in Haizhu District of Guangzhou City by policemen from the "610 Office" on 29 November 2002. They were reportedly detained in the Haizhu District Detention Centre, where they were allegedly subjected to severe ill-treatment. Zhixiang Luo allegedly started a hunger strike and her health reportedly deteriorated rapidly before she was sent to hospital on 4 December 2002. She reportedly died on that same day, allegedly by falling from a building. Her husband was allegedly still in detention.

324. **Fengwei Wang** (f) was reportedly arrested on 14 January 2002 by police officers from Yanggu County, Shandong Province, and severely beaten before being sent to the detention centre of Shen County, where she was allegedly repeatedly beaten. She reportedly died in November 2002 as a result of the beatings.

325. **Ms. Hou** (f) reportedly died as a result of the treatment she was subjected to at the Ping'antai Labour Camp in Gansu Province on 29 November 2002. Her ribs and pelvis were allegedly fractured and she had suffered from severe haemorrhaging. Shortly after her death, the police reportedly sent her body to be cremated.

326. **Huajiang He** was reportedly arrested by policemen from the Qingxin Police Substation of Ranghulu District in Daqing City on 16 September 2002. On 23 December 2002, he was allegedly sent to the Daqing Labour Camp, where he reportedly died as a result of the treatment he was subjected to upon his arrival. According to the information received, his corpse was seen on the following day bearing strangulation marks around his throat and other signs of ill-treatment. His body was allegedly transferred to a different location for cremation.

327. The Government informed the Special Rapporteur that Huajiang He was assigned to three years' re-education through labour (from 16 September 2002 to 15 September 2005) for taking part in Falun Gong activities and disrupting public order, and was sent to the Daqing re-education through labour facility on 23 December 2002. At 11pm that same day, on leaving the latrines, his heart felt hot, he felt thirsty and fell to the ground; his face went pale and he was unable to talk. The guards on duty immediately took him to the municipal hospital for treatment, where he was diagnosed to have acute heart disease. Efforts to save him were fruitless and he died that same night at 12:34 am. The re-education through labour facility checked

with the hospital before notifying He's family and the procuratorate. He's family said he had a history of heart disease and did not dispute the cause of death. The claim that He's body bore torture scars and was "taken away and cremated" is sheer fabrication.

328. **Guiying Meng** (f) reportedly was reportedly arrested in June 2002 by police officers from the Manzhouli City Police Department and detained in a city detention centre for more than seven months. During her detention, she was allegedly beaten and force-fed. According to the information received, she was released on 20 January 2003, and her family immediately took her to the Manzhouli City Hospital, where she reportedly died on 24 January 2003.

329. **Liu Jie** (f) was reportedly arrested on 6 February 2003 and taken to the Second Detention Centre in Shuangcheng City, where she was allegedly subjected to ill-treatment. It is reported that on 17 February 2003, her family was informed of her death.

330. **Lan Hu** was reportedly arrested in January 2002 and detained in Jiujiang City Detention Centre for nearly a year. He was reportedly sentenced in December 2002 to 11 years in detention to be served at Nanchang City Prison, where he was allegedly forced to work for up to 15 hours a day. On 9 February 2003 his family was reportedly informed of his death and came to the prison where they reportedly found his body emaciated.

331. The Government informed the Special Rapporteur that enquiry into the other cases mentioned in the report was not possible as details were not supplied or the place of detention was not specified. The Chinese Government does, at this juncture, wish to restate its position of principle as regards Falun Gong.

332. Falun Gong is not a religion, it is an anti-social, anti-scientific, anti-humanitarian sect whose violent tendencies are becoming steadily more apparent. Its leader, Li Hongzhi, proclaims that the world is coming to an end and that the sick should not take medicine; he urges practitioners to "resist the inflexibility of life" and "find spiritual perfection". A number of Falun Gong adherents become deluded by the heretical sect, disown their relatives and descend into moral degeneracy; it has even happened that a mother strangled her own daughter and a son hacked his mother and father to death. Incomplete figures indicate that, to date, practising Falun Gong has led over 1700 people to their deaths.

333. The Falun Gong organisation has repeatedly damaged and destroyed television broadcasting facilities, attempted to derail trains and so forth: in pursuit of political ends it has also, on numerous occasions, attacked satellite transmission equipment, disrupted the routine broadcasting of television programmes and normal use of satellite transmitters and threatened the safety of radio facilities. Such attacks on unprotected civilian satellite facilities flagrantly violate the standards of public moral conduct, openly flout the rules of law relating to civilian communications and seriously endanger public safety. The leadership of the International Telecommunication Union has expressed its resolute opposition to such deplorable activities.

334. At a crucial time during the first half of this year, while the Chinese Government was taking energetic measures to combat untypical pneumonia and striving to protect citizens' lives and health, from outside the country Li Hongzhi issued a "jing wen" (classic text) encouraging Falun Gong practitioners to engage in spoiling activities and proclaiming "this may increase gong and ward off SARS, otherwise it may be cleared away by Heaven". At his urging, Falun Gong practitioners did stage many spoiling activities, going so far as to try to spread the virus throughout the country. In May, Falun Gong practitioner Chen Fuzhao in Cangnan county, Zhejiang, under the influence of Li's "jing wen", put poison in the food of a number of beggars, killing 16 of them and one Buddhist. Falun Gong ruins lives, violates human rights and constitutes a grave danger to society. The action taken by the Chinese Government against it is intended to afford greater protection for the rights and freedoms of the masses.

335. Sects are a common evil in today's world, they not only exist in developing countries but also represent a danger in developed ones—the Branch Davidians, the Peoples Temple and Heaven's Gate in the United States, Aum Shinrikyo in Japan and the Movement for the Restoration of the Ten Commandments of God in Uganda. All countries regard the question of domestic cults as a serious one and are taking stern steps to contain and oppose them. The action taken by the Chinese Government in accordance with the law against the criminal activities of the Falun Gong and its leaders is similar to that taken in any other country.

336. China is a country ruled by law, and the Government's action in outlawing the Falun Gong organisation is entirely legitimate. In countering the Falun Gong, every department acts strictly in accordance with the law and is especially careful about the ways and means it employs. Initially, the vast majority of Falun Gong practitioners are unaware of the true nature of Li Hongzhi and the Falun Gong, and they too are victims. The Government's consistent attitude towards such people is one of kindly assistance and patient persuasion while affording ample guarantees of their various rights. After kindly, patient persuasion, the great majority of the deluded victims shake off the psychological control of Falun Gong and resume normal lives. The law enforcement authorities naturally hold to account the small number of criminals who make use of the cult to harm people's lives, illegally amass wealth, steal State secrets and severely disrupt public order within society. In the course of trying such cases, they pay the utmost attention to guaranteeing the lawful rights of the individuals concerned. China was one of the first States parties to the United Nations Convention against Torture; it maintains a prohibition on torture and other cruel, inhuman and degrading treatment and punishment, and takes specific action under such domestic legislation as the Penal Code, the Code of Criminal Procedure and the Police Act. Li Hongzhi and his Falun Gong cult, together with a few others outside China with ulterior motives, noisily proclaim that the Chinese Government illegally detains Falun Gong members and tortures or persecutes them to death. They are simply sowing public confusion and befuddling world opinion.

337. By letter dated 8 July 2003, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he had received information on the following individual cases.

338. **Liu Xiaofen** was reportedly arrested in January 2000 by police officers from the Wuzhan Town police station, where she was allegedly kept for several months. Although she was reportedly five-months pregnant and was expecting twins, she was reportedly severely beaten by the police station director, dragged by the hair and kicked. She was reportedly released just before she gave birth and after she paid 5,000 Yuan.

339. **Jiang Zhongli**, a pregnant woman, was reportedly arrested in January 2000 and taken to Hengyang City Detention Centre, where she was allegedly severely beaten. As a result, she reportedly had a miscarriage and her health condition allegedly deteriorated to the point that she was eventually released and later put under house arrest.

340. **Lu Yunzhen** was reportedly arrested in January 2000 in Beijing because she allegedly belongs to Falun Gong, and taken back to her town, Fengcheng City. According to the information received, as she was pregnant, the Chief of the Fengcheng City police station reportedly ordered a forced abortion, which was reportedly carried out in a hospital.

341. **Liang Mei**, a resident of Sichuan Province, was reportedly arrested in February 2000. She and her baby daughter were allegedly slapped by the police at the time of arrest. According to the information received, on the night of 19 July 2000, policemen of the local police station took her away from her place. She was allegedly taken to the police station, where her hands were allegedly shackled behind a tree and her mouth sealed with a tape for a prolonged period to the point that her clothes became soaked by her milk. She was reportedly kept at the detention centre for 15 days, during which her baby was left without her milk.

342. **Wang Shaona** and her husband were reportedly arrested on 15 February 2000, after they allegedly went to Beijing to appeal on behalf of Falun Gong. They were both reportedly taken to the Shekou Detention Centre. She was six-months pregnant and was allegedly forced to abort in order to make her detention legally valid. According to the information received, they were detained again on 30 June 2000. Wang Shaona was reportedly forced to abort a second time and subsequently taken to the Nashan District Detention Centre, Shenzhen City, Guangdong Province.

343. **Wang Xia** was reportedly arrested on 19 February 2000 in Beijing after she allegedly appealed on behalf of the Falun Gong. She was reportedly beaten during interrogation at Linhe City police station. On the following day, she was reportedly transferred to Hohhot City Women's Labour Camp, where, despite being three-months pregnant, she was allegedly forced to do hard labour, to stay in awkward positions for prolonged periods and subjected to electric shocks. She was reportedly hung up by her handcuffed wrists for entire days. On 30 July 2000, when she was eight-months pregnant, she was reportedly taken back to Linhe City police station, where she was allegedly subjected to an attempted forced abortion. According to the information received, one month after she gave birth, she was forced to leave her house as she allegedly renounced to give up Falun Gong.

344. **Zou Guirong**, detained at Masanjia Labour Camp, was repeatedly beaten and subjected to electric shocks after journalists visited the camp in February 2000.

Toothpicks were also allegedly inserted under her fingernails. She was also allegedly forced to uncover her breasts and walk from one cell to another and hung upside down until her face turned red and her eyes protruded.

345. **Yang Ping** was reportedly arrested in March 2000, when she allegedly went to Beijing to appeal on behalf of Falun Gong. She was allegedly pregnant at the time of arrest and subjected to a forced abortion. She was reportedly initially detained at the Zhonghualu Police Station and later at the Caidian Police Station, both in Wuhan City.

346. **Zhang Wuying** and her husband were reportedly severely beaten and kicked in April 2000 in front of the State Appeal's Office by over 22 policemen. She was reportedly four-months pregnant at that time. One month later, an officer from the Cuizhu police station reportedly ordered her to be sent to the Military 102 Mental Hospital to have an abortion. It was however alleged that the forced-abortion failed and that she eventually gave birth. On 8 February 2001, she and her husband were reportedly arrested again. During the arrest, the baby was allegedly injured on the head and legs.

347. **Bai Lili, Chan Shuhua** and **Zheng Baohua** had reportedly been detained at Women's Labour Camp in Shijiazhuang City since May 2000. Detainees had reportedly been held in a room that was about 40° Celsius for a whole day during which they were allegedly prohibited from going out or even using the toilet. Many detainees were allegedly subjected to sexual abuse by guards, such as hitting them on their breasts. Bai Lili is believed to have lost her hearing after she was allegedly slapped on the face with the soles of shoes. Chan Shuhua reportedly sustained many scars on her body from being scratched. Zheng Baohua was allegedly hung up with only her toes slightly touching the ground for an extended period of time.

348. **Dou Jianhua** was reportedly arrested in June 2000, when she went to Beijing to appeal on behalf of Falun Gong, and taken to Beishan Detention Centre in Lianzhushan Town, where she was allegedly forced to load heavy bricks, although she was pregnant. This reportedly resulted in a miscarriage.

349. **Li Naimei** and **Wu Xiaoping**, along with other female Falun Gong practitioners, were reportedly arrested and sent to Jingxing County Detention Centre in Hebei Province at the end of July 2000. According to the information received, during their detention, all female practitioners were stripped naked, beaten and subjected to electric shocks by policemen. Wu Xiaoping was reportedly given electric shocks to her mouth and vagina. Policemen allegedly applied electric shocks to Li Naimei's breasts, despite the fact that she still had wounds left over from an operation to remove a tumour. She was also reportedly subjected to electric shocks on her genitals and perineum.

350. **Liu Yanhua** was reportedly arrested in October 2000 and taken to the Yingtaoyuan police station of Weifang City allegedly for appealing on behalf of Falun Gong. Although she was allegedly pregnant at the time of her arrest, she was reportedly severely beaten by the Deputy Chief of the police station, who allegedly also stuffed cigarettes into her nose and kicked her on her back.

351. **Yan Juying** was reportedly arrested on 6 October 2000, when she went to Beijing to appeal on behalf of Falun Gong, and sent to the Sanhe City Police Bureau. During the transfer, she was reportedly beaten, kicked, slapped on the face and pulled by the hair by policemen. She was allegedly lifted into the air and violently thrown onto the ground. A policeman allegedly whipped her numerous times and subjected her to electric shocks. He reportedly threatened to slash her body with boiling water and to order some men to rape her. According to the information received, she was ordered to take off her clothes and was sexually abused when she refused to obey.

352. **Li Shulan** was reportedly arrested on 30 November 2000 and taken to Haidan Branch of the Beijing Police Bureau. It is alleged that the police stripped off all her clothing, except for her underwear, and put her in a cell, where she was reportedly severely beaten by other inmates allegedly instigated by a police officer. Her hair was allegedly pulled and her head knocked against a wall and a towel tightly tied around her neck to choke her until she lost consciousness. Her eyelids, face, breast and chest were allegedly pierced with a ballpoint pen. Despite her poor condition, the police allegedly subjected her to electric shocks. Li Shulan reportedly underwent a hunger strike to protest against this treatment. According to the information received, she suffered from vaginal bleeding and part of her body remained numb for a year. When she was released one year later, she was reportedly unable to walk normally.

353. **Shi**, a woman from Jilin Province detained at Heizuizi Labour Camp was reportedly subjected to electric shock in early winter 2000. As a result, her menstrual period reportedly abruptly ceased.

354. **Huang Qifen** was reportedly arrested on 20 December 2000, when she went to Tiananmen Square in Beijing to appeal on behalf of Falun Gong, and was taken to a police station where, according to the information received, her face, breasts, genitals and other parts of her body were seriously burned and injured from being shocked with electric batons. She reportedly fell unconscious as a result of the severe beatings she was subjected to. She was reportedly told that she would only be released if she agreed to state that the burns had been self-inflicted.

355. **Liu Xiaolian** was reportedly taken to labour camp in Harbin City, Heilongjiang Province, in December 2000, after she went to Beijing to appeal for Falun Gong. She was reportedly denied drinking water for nine days and police allegedly stomped on her back. She was reportedly later escorted to a detention centre in Chibi town, where she is believed to have been held for 20 months during which she was allegedly subjected to ill-treatment. According to the information received, she was never allowed a family visit or a full night's sleep, she was severely beaten and kicked and forced to kneel down on the ground for twelve hours. On one occasion she was allegedly taken to the hospital, where she was allegedly forcibly injected with a substance that caused her to have blood in her stool again. She was allegedly released after she went on a hunger strike. However, she was reportedly still closely monitored at home and reportedly arrested again once her eyesight recovered.

356. **Gao Xunhong** was reportedly arrested on 22 December 2000 in Beijing where she had gone to appeal on behalf of Falun Gong, and taken Pingshan County Police Station in Shijiazhuang City, Hebei Province. She was allegedly severely

beaten on various occasions. Policemen allegedly covered her eyes and force-fed her with hot pepper powder, poked her body with pins, stripped off her clothes and sexually harassed her.

357. **Gu Peng**, her husband and her six-month-old baby were reportedly arrested in January 2001 in Beijing for appealing on behalf of Falun Gong. She was reportedly repeatedly subjected to electric shocks. Her husband was reportedly sent to a labour camp located in Boading. According to the information received, as she appealed for his release, she was taken to a mental hospital, where she was allegedly forced to take drugs with mentally debilitating effect.

358. **Chen Yali** as well as other Falun Gong practitioners detained at the Wanijia Labour Camp, were reportedly locked in the so-called "iron chairs" for 28 days and then hung up by their wrists on their cell door for two days between 18 and 20 June 2001. Chen Yali was also reportedly subjected to electric shocks. A guard was reported to have grabbed her by her breast and to have shout obscenities at her. To protest against this treatment, she allegedly underwent a 39-day hunger strike.

359. **Wang Hongmei** was reportedly arrested on 7 June 2001 by police officers from Lanzhou University Police Station allegedly on the grounds that she refused to stop practicing Falun Gong. She was reportedly sent to the Taoshuping Detention Centre in Lanzhou City, where she allegedly underwent a hunger strike to protest her detention. She was reportedly pregnant at that time and subjected to a forced abortion by the police.

360. **Xu**, a resident of Xinglong Town, Sichuan Province, was reportedly arrested in late July 2001 by the Xinglong Town Local Government. Although she was nursing a nine-month-old baby at that time, she was allegedly kept without her baby at the Government building. According to the information received, she was hung up by her handcuffed wrists and beaten. The alleged pressure on her breasts resulting from the hanging and beatings reportedly forced her milk out.

361. **Wang Youxia** was reportedly arrested by Cuijiagu Town police officers for hanging up Falun Gong banners in August 2001. She was allegedly pregnant at the time of her arrest. She was reportedly severely beaten by the officers and allegedly suffered a miscarriage as a result.

362. **Yang Dingying** and **Zhu Jiayan** were reportedly arrested in December 1999 and taken by the Security Section of the Fourth Machinery Company to a detention centre, where they were allegedly subjected to torture and other forms of ill-treatment before being released 15 days later. They were reportedly detained for another 15 days in July 2000 by officers of the Yulukou Police Station. In October 2001, they were reportedly arrested again and detained at the Yulukou Police Station. Yang Dingying was reportedly subjected to sleep deprivation and other forms of ill-treatment. According to the information received, after eight months of detention, she was sentenced to one year at the Second Brigade of the Shayang Labor Camp for allegedly refusing to give up the practice of Falun Gong. In the camp, she was allegedly forced to work for long hours. It is reported that she was frequently forced to sit on small stools for the entire day. Zhu Jiayan was allegedly not allowed to sleep for several nights. She was reportedly handcuffed for about half a month and subjected to severe

ill-treatment. She allegedly started a hunger strike to protest it as a result of which she was allegedly force-fed. After eight months of detention, she was reportedly sentenced to one year in a forced labour camp in June 2002, and sent to the Ninth Brigade of the Shayang Labor Camp. In the camp, guards, together with inmates, reportedly beat her and did not allow her to sleep. On the day she was released, a group of inmates reportedly threatened her with death, slapped her face with slippers and stuffed her mouth with dirty cloth, which made her face swell and bleed. Zhu Jiayan was reportedly taken to the Shashi re-education centre on 31 October 2002. One month later, she was reportedly detained in a detention centre for another two months. On 21 February 2003, she was reportedly escorted to the Wuhan re-education centre, where she was allegedly subjected on a daily basis to ill-treatment by four inmates for a period of at least 20 days.

363. By letter dated 5 August 2003, sent jointly with the Special Representative on human rights defenders, the Special Rapporteur advised the Government that he had received information according to which **Huang Qi**, a computer engineer, was reportedly arrested in Chengdu on 3 June 2000 with his wife, **Zeng Li**, allegedly for setting up China's first domestic human rights website. It is reported that in an open letter written in prison in 2001, Huang Qi described how he was ill-treated and beaten by three policemen after his arrest. He also allegedly stated that he had tried to commit suicide but was prevented from doing so. His wife and young son have reportedly never been allowed to visit him while in detention and his lawyer was permitted to visit him only once after his arrest in June 2000.

364. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002 and 2001 for which no response had been received.

Urgent appeals

365. On 25 February 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, concerning **Xu Zerong**, Research Associate Professor at the South east Asia Institute, Zhongshan University, Guangzhou (South China). According to the information received, Mr. Zerong was reportedly charged on 25 July 2000 in connection with "the illegal publication of books and periodicals since 1993". He was reportedly detained incommunicado for eighteen months leading up to his trial and his current place of detention is allegedly unknown. Mr. Zerong was reportedly sentenced in January 2002 by Shenzhen Court to 13 years in prison, three years for "economic crimes" and ten years on charges of "leaking state secrets".

366. By letter dated 19 March 2003, the Government informed that Xu Zerong was sentenced to 10 years' fixed-term imprisonment and stripped him of his political rights for three years for the offence of unlawfully providing State secrets to foreign entities, and for the offence of conducting an illegal business, sentenced him to five years' fixed-term imprisonment and fined him 50,000 yuan renminbi.

367. In addition, the Government informed that China was one of the first countries to sign up to the United Nations Convention against Torture. The prevention of torture and other cruel, inhuman or degrading treatment or punishment is a position

to which China is deeply committed. Chinese law safeguards the enjoyment by persons remanded in custody or serving sentences of the rights to which they are entitled, including the right to prompt medical attention and other humanitarian treatment. Chinese law sets out extremely strict provisions prohibiting torture, precluding and punishing the perpetration by State officials, in particular the judiciary, of acts of torture or other cruel, inhuman or degrading treatment or punishment and safeguarding the lawful rights and interests of citizens in custody or serving sentences. Our enquiries have ascertained that Xu has not been subjected to any torture while in custody.

368. On 16 December 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working group on arbitrary detention concerning **Liu Di** (f), a 22-year-old student at Beijing Teacher's University and an Internet essayist, who had allegedly been missing since 7 November 2002. On 8 November 2002, security officials reportedly told her family that she was being investigated for "participating in an illegal organization." No information was reportedly given as to her whereabouts.

369. By letter dated 25 February 2003, the Government responded that her case was being under investigation in accordance with the law.

370. On 24 January 2003, the Special Rapporteur sent an urgent appeal concerning **48 nationals of the Democratic People's Republic of Korea**, including families with children, who were about to leave China by sea and to seek asylum either in the Republic of Korea or Japan. They were reportedly arrested by the Chinese security services in Yantai City, Shandong Province, on 18 January 2003. Three aid workers who assisted them were reportedly arrested as well. According to the information received, as of mid-January 2003, 3200 nationals of the Democratic People's Republic of Korea had been forcibly repatriated as a result of the so-called "100 day campaign" and 1300 others were awaiting their repatriation in the detention centres of Tumen and Longjing. Fears have been expressed that these 48 nationals of the Democratic People's Republic of Korea could be at risk of imminent forced deportation (refoulement) to the Democratic People's Republic of Korea where it was believed that they could be at risk of torture and other forms of ill-treatment.

371. By letter dated 19 March 2003, the Government responded that a case of clandestine border-crossing was uncovered on 17 January 2003 and that 30 persons were apprehended in this connection, including Chinese nationals and irregular migrants from the Democratic People's Republic of Korea. Two of them were suspected of organizing these operations and were taken into criminal detention in accordance with the law. The case was pending.

372. On 24 January 2003, the Special Rapporteur sent an urgent appeal concerning **Tsultrim Dargye, Tamdring Tsering** and **Ashar** (or **Aka**) **Dhargye**, who reportedly were among the four monks arrested along with Tenzin Deleq Rinpoche on 7 April 2002 at Jamyang Choekhorling monastery, Yajiang county, Sichuan province. One has since been released, but the above-named were allegedly still in detention and it was not known whether they had been charged or sentenced. Tamdring Tsering was allegedly severely beaten by police on arrest. It was not known whether he is receiving any medical treatment. **Choetsom**, aged 19, and **Pasang**, aged

approximately 19, monks at Jamyang Choekhorling monastery, reportedly went missing on 8 April 2002 after being allegedly interrogated and beaten by the police during the raid on the monastery the day before. They had not been seen since. **Tashi Phuntsok**, from the same monastery, was reportedly arrested on around 21 April 2002 while he was in Nyagchukha hospital undergoing treatment for tuberculosis. He was allegedly still in detention, but it was not known whether he had been charged or sentenced. It was not known whether he was allowed to continue his medical treatment. **Tserang Dondrup**, aged approximately 65, was reportedly arrested on around 7 May 2002, while he was collecting 20,000 signatures on a petition to deter an earlier alleged attempt to arrest Tenzin Deleg Rinpoche. He was reportedly tried in Nyagchukha and sentenced to eight years' imprisonment. The details of his conviction were not known. He allegedly lost most movement or flexibility in his legs, allegedly as a result of the treatment he had been subjected to after his arrest. Fears were expressed that he could not be receiving appropriate medical treatment.

373. By letter dated 29 April 2003, the Government informed that Tsultrim Dargye, Tamdring Tsering, and Ashar Dhargye were each sentenced on 10 May 2002 to one-year terms of labour re-education by the Labour Re-education Commission of Ganzi Autonomous Prefecture, Sichuan province, for having engaged in separatist activities. Following a thorough investigation by the Chinese public security and judicial authorities, no trace has been found of the other four individuals mentioned in the Special Rapporteur's letter, namely Choetsom, Pasang, Tashi Phuntsok and Tserang Dondrup.

374. On 12 February 2003, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders concerning **Wang Jinbo**, a 30-year-old prisoner and former member of the banned China Democracy Party who was allegedly repeatedly subjected to attacks by fellow inmates in a prison in Shandong Province and who allegedly received no protection from prison authorities. His family was reportedly not permitted to visit him and had its telephone cut off by the authorities. According to the information received, he was arrested in May 2001.

375. By letter dated 29 April 2003, the Government informed that Wang Jinbo was detained on 24 May 2001, arrested on 2 June of that year and locked up in the Yingnan county remand facility. On 4 December 2001 the Linyi Intermediate People's Court found him guilty of incitement to the overthrow of State power and sentenced him to four years' imprisonment (from 24 May 2001 to 23 May 2005), also stripping him of his political rights for two years. Wang is serving his sentence at the Shandong No. 2 Provincial Prison. Since entering prison he has seen his family regularly; the visits have never been broken off or suspended, and Wang has not been subjected to torture.

376. On 13 March 2003, the Special Rapporteur sent an urgent appeal concerning **Tabo**, also referred to as **Dape** or **Dabei**, and **Didi**, both from Lithang in the Kardze (Ganzi) Tibetan Autonomous Prefecture of Sichuan province, who were reportedly arrested on 12 and 14 February 2003 respectively and were allegedly being held incommunicado at an unknown location.

377. By letter dated 16 May 2003, the Government responded that both men were taken into custody for investigation on suspicion of illegally providing intelligence.

While Didi was subsequently released on his own recognizance awaiting trial, Tabo was taken into detention with the authorization of the procuratorial authorities.

378. On 28 March 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning **Jiang Lijun**, an Internet activist, who was reportedly arrested on 6 November 2002 and taken to Beijing's Quincheng Prison. For the first four months of his detention, Jiang's wife, Yan Lina, was reportedly unable to obtain any documentation regarding his arrest or his whereabouts. On 25 March 2003 she was reportedly eventually told by the Beijing Public Security Bureau that her husband had been officially arrested on 14 December 2002.

379. On 21 May 2003, the Special Rapporteur sent an urgent appeal concerning **Minli Wand** (f), a Falun Gong practitioner, who was reportedly arrested by officers of the Public Security Bureau on 12 May 2003 in Jilin City. She allegedly tried to escape her arrest by jumping out of a window. As a result, two of her ribs were reportedly broken. She was reportedly taken by the police to the City Hospital under strict and constant surveillance. A laryngotomy was reportedly forcefully performed on her allegedly in order to make her stop talking about Falun Gong. As a result, she had reportedly not been able to speak anymore.

380. By letter dated 9 July 2003 the Government responded that she jumped from a window located at a sixth floor. Police subsequently took her to a hospital, where she was subjected to a tracheotomy. Her family did not take part in the emergency treatment and did not express any interest in rendering assistance. She made full recovery and was discharged from the hospital.

381. On 5 June 2003, the Special Rapporteur sent an urgent appeal concerning the following 18 Tibetans: **Yeshi** (f), aged 13, **Tenzin Nyima**, aged 14, **Rinchen Dhondup**, aged 14, **Gyaltsen Wangchuk**, aged 14, **Lobsang Jampa** (f), aged 16, **Yoten** (f), aged 17, **Rinzin Dolma** (f), aged 17, **Tsultrim Gyatso**, aged 17, **Thupten Tsering**, aged 18, **Kelsang Wangdue**, aged 19, **Tashi Choedon** (f), aged 19, **Lobsang Phuntsok**, aged 21, **Tashi**, aged 22, **Lobsang Tenpa**, aged 23, **Yeshe Sangpo**, aged 23, **Lobsang**, aged 25, **Lobsang Tenphel**, aged 28 and **Gelek**, aged 30. They were all reportedly forcibly returned on 31 May 2003 from Nepal where they had applied for asylum. At least eight of the deportees were allegedly ill. On 30 May, the Office of the United Nations High Commissioner for Refugees (UNHCR) publicly stated that it had strong reasons to believe that the individuals would be of concern to them but that they had been denied access to them to assess their claims. According to the information received, it warned that returning people before their status had been determined would be in clear contravention of international law. Following the deportations, UNHCR has reportedly expressed "grave concern" about their fate.

382. On 10 June 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working group on arbitrary detention and the Special Rapporteur on adequate housing concerning **Tamding**, a monk who is in charge of the Finance Department of the Sertar Buddhist Institute, **Palzin**, a monk, **Shongdu**, a monk from Menyak County, and **Ngodup**, layman. They were reportedly arrested by officers of the Public Security Bureau (PSB) of Serthar County, Karze "Tibet Autonomous Prefecture" ("TAP"), Sichuan Province, on 27 May 2003. They had

allegedly recently been summoned to Serthar County PSB Detention Centre in connection with their alleged involvement in a row over reconstruction at Serthar Buddhist Institute in December 2002.

383. By letter dated 29 July 2003, the Government responded that officials, as well as their vehicles and local offices were attacked by individuals using rocks and clubs. At least ten employees of the local national people's congress, including its chair, were injured and seven official vehicles were damaged. As a result, the local authorities took the necessary steps to calm the situation. On 27 May 2003, the Serthar county public security authorities imposed administrative detention to the above-named four individuals: 15 days for Tamding and 10 days for Shongdu, Palzin and Ngodup. All of them were released upon completion of the punishment.

384. On 11 June 2003, the Special Rapporteur sent an urgent appeal concerning **Pastor Gong Shengliang**, the leader of the evangelical South China Church, who was reportedly serving a life imprisonment sentence at Jingzhou Prison, Hubei Province. He had allegedly been beaten and severely wounded by the prison officers and was reportedly sustaining serious internal injuries and passing blood in both his stools and urine. He had allegedly been bed-bound since late May 2003 and slipped into a coma for several days. His family were allegedly last allowed to visit him on 14 April 2003 and had not been allowed to visit subsequently on the grounds of the anti-SARS campaign.

385. By letter dated 5 September 2003, the Government informed that Gong Shengliang (Gong Dali) was sentenced on 10 October 2002 to life imprisonment by the Jingmen Intermediate People's Court for the crime of assault and rape. A physical examination revealed that Gong suffered from gastric ulcers prior to his incarceration, with his medical history going back more than 20 years; however, he was cured by an operation and has continued to take medicine regularly for many years. After entering prison, Gong received ample and timely medical treatment, and his condition is now stable; there are no signs of blood in his stool, and his health is in all other respects perfectly normal. Chinese prisons are civilized and enforce the law. An investigation failed to find any indication that Gong suffered from discrimination, ill-treatment or beating in prison, much less any beatings that might have damaged his internal organs. Between the time he entered prison in December 2002 and April 2003 Gong's relatives visited him four times. Occasionally, in order to prevent the spread of infection among the prison population, measures are taken to seal off Chinese prisons. At present, visits with prisoners have returned to normal.

386. On 11 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women concerning **Wei Xingyan**, a student, who was reportedly arrested on 11 May 2003 along with a dozen of other students and teachers from Chongqing University and China Southwest University of Political Science and Law for hanging banners and balloons commemorating 13 May, the anniversary of the introduction of Falun Gong. According to information received, on 13 May 2003, several policemen took her to a cell in Baihelin Detention Center of Shapingba District, and forced two female inmates to strip her. One of the uniformed policemen reportedly pushed her to the ground and raped her as the other inmates watched. As she engaged in a hunger strike to protest her treatment, police reportedly botched a violent force-feeding attempt, seriously injuring both her trachea

oesophagus, leaving her unable to speak. On 22 May 2003, she was reportedly transferred to the Southwest Hospital in Chongqing City, but her condition was not known at the time of writing the urgent appeal.

387. By letter dated 29 July 2003, the Government responded that there was no such person as Wei Xingyan among either the permanent or the temporary residents of Chongqing city and that no student with this name was registered with the Chongqing University. This person is no among the inmates of Baihelin detention centre in Shapingba district.

388. On 1 July 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning **Zhao Changqing, Ouyang Yi, Dai Xuezhong, Jiang Lijun, He Depu, Han Lifa** and other alleged political dissidents. Zhao Changqing was reportedly arrested on 4 November 2002 and formally charged with inciting subversion of state power on 25 June 2003. His arrest, detention and charging was allegedly the result of his drafting of an open letter to China's 16th Party Congress calling for political reform. Zhao Changqing was reportedly suffering from tuberculosis at the time of his arrest and that his health had seriously deteriorated. Fears were expressed for his physical integrity if he did not receive prompt and adequate medical attention. Concern was also expressed for the safety of the other above-named persons in view of the fact that some of them were allegedly held in incommunicado detention.

389. By letter dated 17 October 2003, the Government informed that Zhao Changqing founded an illegal organisation, conspired to overthrow the power of the State, and sought time and again to topple the lawful Government. With the approval of the people's court, the public security authorities arrested him in accordance with the law on 25 December 2002. On 7 July 2003, the local court sentenced Zhao under article 105 of the Penal Code to five years' imprisonment and stripped him of his political rights for three years. The Chinese law-enforcement authorities handled this case throughout strictly in accordance with the law. Under article 66 of the Code of Criminal Procedure, which regulates the approval of arrest, the public security authorities transmitted material and evidence in the case to the people's procuratorate for authorisation before proceeding to Zhao's arrest. In effecting the arrest, they acted in accordance with article 71 and 72 of the Code, showing the suspect the arrest warrant and notifying his family within 24 hours, notifying the people's procuratorate of the circumstances of the arrest and operating under its supervision. Zhao's investigation in custody after arrest did not exceed the 12 months laid down in article 124 of the Code. In a humanitarian spirit and in keeping with the relevant laws and regulations, the public security authorities during this time made appropriate living arrangements for him and took meticulous care of his tuberculosis. In the early period of custody, the Xian Municipal Public Security Bureau requested the municipal tuberculosis clinic to give Zhao check-up and bought medications for him. Later it took him to the municipal public security services hospital for restorative treatment. On 18 April 2003 the municipal tuberculosis clinic again gave Zhao a full examination, confirmed that he had recovered and furnished x-ray plates and a certificate of diagnosis. The claims in the communication that the Chinese Government violated legal procedure in arresting Zhao and that his health has deteriorated are not consistent with the facts.

390. By letter dated 13 November 2003, the Government informed that Dai Xuezhong was detained on 27 November 2002 on criminal charges by the Shanghai municipal public security authorities for involvement in activities jeopardising the security of the State. On 2 January 2003, the Shanghai Municipal Re-education Labour Management Committee assigned him, in accordance with the Re-education through Labour (Trial Implementation) Act, to three years' re-education.

391. In the same letter, the Government informed that He Depu was detained on criminal charges by the public security authorities in January 2003 on suspicion of incitement to overthrow State power. The case went on trial in the Beijing Municipal Intermediate People's Court on 14 October and the proceedings are still in course. Inquiries have shown that the Chinese law-enforcement authorities have handled the above cases throughout strictly in accordance with legal procedure, and there has been no question of torture.

392. On 23 July 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the right to health concerning **16 individuals thought to be HIV-positive**, some of whom may be suffering from AIDS. They were reportedly being detained by police in Xiaongqiao village, Shangai county, Henan Province, where they had allegedly been beaten. 13 of them were reportedly arrested on 22 June 2003 during a violent raid by approximately 600 police on Xiaongqiao village. According to the information received, during the raid, a number of villagers, including children, were beaten with metal rods and electro-shocks batons, resulting in 12 injured individuals. The above-mentioned 16 persons are believed to have been beaten in order to confess to the crimes of "robbery" and "attacking Government offices".

393. By letter dated 12 November 2003, the Government informed that in the period up to June 2003, the Henan provincial and Zhumadian municipal health authorities decided to conduct a survey of HIV-positives and AIDS sufferers with a view to improving their situation and providing timely succour. On 9 June the Shangai county Party committee and county Government appointed a working group from the health and hygiene departments, in accordance with arrangements made by the provincial and municipal health authorities, to conduct a survey of key villages where the AIDS situation is serious. The events were sparked on 11 June, while the working group was surveying Menglou village in Wulong township, Gao Wangcheng, by two villagers' fraudulent attempt to obtain some of the special benefits the State offers to HIV-positives and AIDS sufferers. When the two persons were taken to the police station for questioning, a crowd of villagers, apparently unaware of the true situation, began protesting. The facts show that the events of 11 June were a serious case of a crowd attacking Government facilities, looting and damaging public and private property. The Shangai county public security authorities made diligent inquiries and assembled proof incriminating a total of 21 individuals, among them Xiong Xinwei and several HIV-positives, in looting and mass attacks on State facilities. On 21 June the public security authorities proceeded to the arrest on criminal charges of the 21 suspects; they captured 16, leaving five still on the run. Four suspects, Xiong Xinwei among them, are already in custody with the approval of the Shangai county people's procuratorate, 12 are on bail awaiting trial (some HIV-positives among them), and the five who are on the run are being pursued.

394. On 21 October 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary detention, concerning **Zhang Yi Nan**, a leading historian of the unofficial Chinese House-Churches movement, and **Xiao Biguang**, a campaigner for religious freedom and worker's rights, a lawyer and law lecturer at Beijing University. According to the information received, Mr. Zhang and Mr. Xiao were arrested on 26 September 2003 in Central Henan Province's Lushan County by members of the Public Security Bureau Police, while attending a friend's wedding. It is reported that they are being held at an undisclosed location since their arrest. In view of the alleged detention of Zhang Yi Nan and Xiao Biguang at an undisclosed location, fears were expressed that they may be at risk of torture or forms of ill-treatment.

395. On 24 October 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on right to freedom of opinion and expression, concerning **He Depu**. His case was already included in a joint urgent appeal sent by the Special Rapporteur on torture and the Special Rapporteur on the right to freedom of opinion and expression on 1 July 2003. It is reported that He Depu's wife was not informed of his whereabouts from the moment of his arrest until his trial. He was reportedly tried on 14 October 2003 by a Beijing court; the trial reportedly lasted only two hours and He Depu was allegedly constantly interrupted when he tried to take the floor, in particular when he tried to inform the court about alleged mistreatment he suffered while in detention. It is reported that He Depu's condition deteriorated significantly since his arrest and that he appeared at his trial in a poor health. Concern was expressed for his physical integrity if he did not receive prompt and medical attention.

396. On 28 October 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on right to freedom of opinion and expression, concerning **Cheng Jun Liu**. He was reportedly arrested in March 2002, and it is said that at the time of his arrest he was shot in the thigh by the police and his hand was burned. He was reportedly sentenced to 19 years in Jilin Prison in September 2002. There he was allegedly severely beaten and subjected to ill-treatment. As a result, in October 2003 he was reportedly transferred to Changchun City Central Hospital, where he is believed to be in a very poor state.

397. On 29 October 2003, the Special Rapporteur sent an urgent appeal, concerning **Kheyum Whashim** Ali (also known as Washim Ali) and **Abdu Allah Sattar** (also known as Abdullah Sattar), two members of the Uighur ethnic group from the Xinjiang Autonomous Region (XUAR). They had reportedly been recognized as refugees by the United Nations High Commissioner for Refugees (UNHCR) after they fled China to Nepal in 2000. Abdu Allah Sattar was reportedly detained by Nepalese immigration authorities in December 2001 and forcibly returned to China in January 2002. Kheyum Whashim Ali was reportedly forcibly returned to China in mid-2002 after being detained by immigration and police authorities in Nepal. It is alleged that both men were detained in the XUAR upon their return. It is believed that Kheyum Whashim Ali has been held in Michuan prison, outside Urumqi. Fears were expressed that they may be at risk of torture or other forms of ill-treatment. Moreover, in light of information that Shaheer Ali (also known as Xieraili, Wujimaimaiti Abasi or Ghojamamat Abbas), another member of the Uighur ethnic group from the XUAR, was allegedly subjected to torture during imprisonment

in Guma (Pishan) County, XUAR in 1994, tried in secret and executed in 2003, fears were expressed that Kheyum Whashim Ali and Abdu Allah Sattar may be at risk of being sentenced and executed in similar circumstances.

398. On 29 October 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on right to freedom of opinion and expression, concerning **Yan Jun**, an Internet activist who is believed to have been detained since 2 April 2003. He was reportedly formally arrested on 9 May 2003. It is reported that during his detention at Xi'an No. 1 Detention Center he has been repeatedly subjected to beatings by other prisoners, allegedly under the encouragement of the Public Security Police. On 28 June 2003, his nose was reportedly broken and he was transferred to the hospital for treatment. He reportedly made official complaints about this treatment but it is alleged that officials had not passed them to the Procuratorate. Fears were expressed that he may be at risk of further torture or other forms of ill-treatment.

399. On 7 November 2003, the Special Rapporteur sent an urgent appeal, concerning **Yao Fuxin** and **Xiao Yunliang**, two labour activists whose cases were included in two urgent appeals jointly sent by the Special Rapporteur on torture and the Special Rapporteur on the rights to freedom of opinion and expression on 9 April and 28 May 2002 respectively (E/CN.4/2003/68/Add.1, paras 337 and 340). The Government provided the Special Rapporteurs with a response by letter dated 13 December 2002. On 8 October 2003 these two men were reportedly transferred from Jingzhou prison to Lingyuan Prison, which is believed to be a huge penal colony where cases of torture and other forms of ill-treatment have been alleged. It is alleged that due to a lack of proper medical facilities available in Lingyuan Prison, their health condition has seriously deteriorated since their transfer. Their respective relatives were allegedly allowed to visit them on 22 October 2003. Serious concern was expressed for their physical integrity if they did receive prompt and adequate medical assistance.

400. On 14 November 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on the right to health concerning four female Falun Gong practitioners. On 27 September 2003, **Yang Fenglian** was reportedly taken to Xihuanlu Brainwashing Center, where she allegedly went on a hunger strike to protest the detention. She allegedly vomited blood and lost conscious several times after being force-fed. It was reported that the "610 Office" ordered her to be secretly transferred to Shijiazhuang City but her whereabouts were allegedly unknown. Yang Fenglian and **her 16-year-old daughter** had allegedly been arrested and subjected to torture and other forms of ill-treatment in the past. **Tian Li** was reportedly beaten by the head of the "610 Office" in Weihai City, and four other officers on 22 May 2002. She was reported to have also been severely beaten at Weihai police station, before being transferred to Weihai Height Detention Centre, where she was allegedly forced to sit in an iron chair torture device and exposed under the sun until her body was numb. As a result, she allegedly lost consciousness and became paralyzed. She was reportedly subsequently released. **Chen Yinghua** was reportedly arrested on 8 August 2003 by Jiaxing City police and taken to a local detention centre on 13 September 2003, where she went on a hunger strike to protest her detention. She was allegedly force-fed with a tube inserted through her nasal passage and into her

stomach while being handcuffed and tightly tied to a bed. On 26 September 2003, she was reportedly sent to the Zhejiang Province Prison Hospital for further similar force-feeding. It was alleged that as a result, her entire body convulsed with pain and she vomited blood. It was reported that when she was untied from the bed, she was too weak to walk, her face was very pale, and her hands and feet were ice cold, her arms swollen and bruised and her blood could not circulate properly. Needles were allegedly inserted into her bruises. She was reportedly released on bail on 13 October 2003.

401. On 17 November 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working-Group and the Special Rapporteur on violence against women, concerning **Li Qian**. She was reportedly taken away from her home in Shanghai on 1 November 2003 by members of the National Security Bureau from Suzhou City and Shanghai City. Since then, her whereabouts were reportedly unknown.

402. On 8 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Representative of the Secretary-General on human rights defenders, concerning **Huang Qi**, publisher of the Internet site "Tianwan", for whom communications were sent on behalf of the Special Rapporteur on the right to freedom of opinion and expression on 26 July 2002 and 24 October 2003, and the Special Rapporteur on torture and the Special Representative on human rights defenders on 31 July 2003. Huang Qi is reportedly serving a five-year sentence for "subversion" and "attempting to overthrow the state". He was allegedly put in solitary confinement in a dark, two-square-meter unfurnished cell in which he had to sleep on the floor after representatives from the organization "Reporters Without Borders" tried to visit him in the top security Nanchong prison on 26 October 2003. He was reportedly moved several days later into a "closely monitored" unfurnished cell, shared with other prisoners.

403. On 9 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, concerning **Lu Guiling**. According to information received, Ms. Guiling, who was reportedly arrested in January 2002 and sentenced to 19 years of forced labour in Weihai City after she reportedly broadcasted a video explaining Falun Gong on public television, was ill-treated during her detention and went on hunger strike to protest. She was reportedly released because her health had seriously deteriorated, and two-months later re-arrested by the local police, and sent on 22 September 2003 to the Shandong Province women's jail in Jinan city, where she again went on hunger strike. She was reportedly force-fed and injected drugs, and as a result has allegedly developed amyotrophia, has lost a lot of weight and cannot move by herself, and it is reported that the authorities refuse to release her for medical treatment.

Follow-up to previously transmitted communications

404. By letter dated 24 May 2002, the Government responded to a joint urgent appeal sent with the Special Rapporteur on violence against women and the Special Rapporteur on the right to freedom of opinion and expression on 24 January 2002

concerning **Connie Chipkar** (ibid., para. 331). The Government informed the Special Rapporteur that she left China on 24 January 2002. Allegations of torture and ill-treatment are unfounded.

405. By letter dated 13 December 2002, the Government responded to two joint urgent appeals sent with the Special Rapporteur on the right to freedom of opinion and expression on 9 April 2002 (E/CN.4/2003/68/Add.1, para.337) and 28 May 2002 (ibid., para 340). The Government informed that since **Yao Fuxin, Xiao Yunliang, Pang Qingxiang, Wang Zhaoming, Gu Baoshu** and **Wang Dawei** were taken into custody, on 27 March 2002, their rights have been protected, their health condition remained good and they had not been subjected to any form of torture.

406. By letter dated 13 December 2002, the Government responded to the following individual cases:

407. Concerning **Zhu Shenven** (E/CN,4/1999/61, para.115), the Government informed the Special Rapporteur that he is currently serving a 17-year-imprisonment sentence in Harbin City prison, Heilongjiang province, for the offences of receiving bribes and being unable to account for the origin of large amounts of property.

408. Concerning **Yeshe Samten** (ibid., para.124), the Government informed the Special Rapporteur that he was released in January 1998 upon completion of his term of labour re-education.

409. Concerning **Ngawang Jungne** (ibid., para.125), the Government informed the Special Rapporteur that he is currently serving a 15-year-imprisonment sentence in Boni prison, Tiber Autonomous Region, for the offence of espionage.

410. Concerning **Guo Shaokun** (E/CN.4/2002/76/Add.1, para. 297), the Government informed the Special Rapporteur that he was released on 23 November 2001 on his own recognizance awaiting trial and that the recognizance order was revoked on 23 November 2002.

411. Concerning **Hada** (ibid., para.298), the Government informed the Special Rapporteur that he is currently serving a 15-year-imprisonment sentence in Chifeng (Ulanhad) prison, Inner Mongolian Autonomous Region, for the offences of separatism and espionage.

412. Concerning **Cao Maobin** (ibid., para.299), the Government informed the Special Rapporteur that he was placed for mental treatment in Yancheng city hospital no. 4, Jiangsu province, in December 2000, after he was diagnosed as suffering from paranoia. He was discharged from the hospital in July 2001. The local Government office has arranged employment for him and has carried out the necessary formalities for his retirement on medical grounds. His mental state is currently stable. The Government assured the Special Rapporteur that allegations that he has been confined to a psychiatric hospital for espousing dissident views are unfounded.

413. Concerning **Fang Jue** (ibid., para.300), the Government informed the Special Rapporteur that he served a four-year-imprisonment sentence in Liangxiang prison, Beijing city, for the offence of conducting an illegal business, he was discharged on completion of his term in July 2002.

414. Concerning **Liu Haitao** (ibid., para.302), the Government informed the Special Rapporteur that he was transferred to hospital on 15 October 2000 after he complained of ill health. He had contracted chronic nephritis and he had undergone haemodialysis on six occasions between 1999 and 2000. He died on 16 October 2000 of kidney and heart failure.

415. Concerning **Zulikar Memet** (ibid., para.307), the Government confirmed to the Special Rapporteur that he was executed on 14 June 2000, following verification approval by the people's high court of the Xinjiang Autonomous Region.

416. Concerning **Abdulhelil Abdumijit** (ibid., para.308), the Government informed the Special Rapporteur that he died from cardiac arrest on 17 October 2000 after contracting an acute respiratory inflammation and developing myocarditis. According to the Government, all efforts by the hospital to save his life proved unsuccessful and allegations that he died as a result of torture are unfounded.

417. Concerning **Jampel Thinley** (ibid., para.310), the Government informed the Special Rapporteur that he died on 27 November 1996 of respiratory and cardiac failure. According to the Government, all efforts by the hospital to save his life proved unsuccessful and allegations that he died as a result of torture are unfounded.

418. Concerning **Chadrel Rinpoche** (ibid., para.312), the Government informed the Special Rapporteur that he was released from prison on completion of his sentence on 9 January 2002.

419. Concerning **Thupten Kalsang** (ibid., para.312), the Government informed the Special Rapporteur that he was sentenced on 15 March 1998 by the Lhasa city people's intermediate court to 15-year-imprisonment for organizing criminal activities which imperil the State security.

420. Concerning **Shol Dawa** (ibid., para.315), the Government informed the Special Rapporteur that he died in hospital of heart failure on 9 November 2000 after efforts to save his life proved unavailing.

421. Concerning **Phuntsok** (ibid., para.316), the Government confirmed to the Special Rapporteur that he was released on 24 August 1997 on completion of his bail.

422. Concerning **Penpa** (ibid., para.319), the Government informed the Special Rapporteur that he was released on medical parole after he contracted cholecystitis, inflammation of the gall bladder, cholestasia and other disorders.

423. Concerning **Tsering Wangdrak** (ibid., para.320), the Government informed the Special Rapporteur that in June 2000 he died of a heat stroke after all efforts to save his life proved unsuccessful.

424. Concerning **Liang Qing** (ibid., para.325), the Government informed the Special Rapporteur that she was ordered to serve three-year-labour re-education by the Dalian city re-education committee for repeatedly causing a public disturbance. On 14 April 200 she was permitted to serve the rest of her term outside the custodial facility and on 21 June 2002 she completed her term of labour re-education.

425. Concerning **Zhang Chunqing** (ibid., para.325), the Government informed the Special Rapporteur that she was ordered to serve three-year-labour re-education by the Dalian city re-education committee for repeatedly causing a public disturbance. On 21 June 2002 she was granted an early discharge from her labour re-education term.

426. Concerning **Liu Jiankun** (ibid., para.326), the Government informed the Special Rapporteur that he was released on medical parole on 5 July 2000 because he had developed biliary cancer. He died of his illness on 27 August 2000 at Liaoyuan city hospital no.2.

427. Concerning **Wang Bin** (ibid., para.336), the Government informed the Special Rapporteur that on 24 September 2000 he had an altercation with three other inmates of Daqing city labour re-education facility, where he was serving his term. He was beaten by the other inmates and subsequently taken to the Daqing people's public hospital. Efforts to save his life proved unavailing and he died as a result of a rupture and haemorrhaging of the thyroid gland. An investigation was launched and criminal charges were brought against three inmates.

428. Concerning **Zhao Yayun** (ibid., para.338), the Government informed the Special Rapporteur that she hanged herself on the night of 21 June 2001. All efforts to save her life proved unsuccessful.

429. Concerning **Tong Zhentian** (ibid., para.345), the Government informed the Special Rapporteur that he was released on medical parole on 17 May 2001 after contracting pulmonary tuberculosis. He died on 5 July 2001 in Shulan city people's hospital.

430. Concerning **Wu Qingbin** (ibid., para.350), the Government informed the Special Rapporteur that he was admitted to Huainan labour re-education facility, Anhui province. As he was suffering from tuberculosis pleurisy and pleuroperitonitis, in conjunction with hydrops of the pleuroperitoneal cavity, he received necessary medical attention and he was granted parole to go home and seek medical treatment outside the facility. However, he was readmitted to the facility, where he underwent a 12-day hunger strike, as a result of which his system collapsed and he died.

431. By letter dated 17 December 2002, the Government responded to a communication sent jointly with the Special Representative on human rights defenders on 10 October 2002 concerning **Li Qun** (E/CN.4/2003/68/Add.1, para. 329). The Government informed that she was taken by her family to the Nanjing psychiatric hospital on 28 March 2000. She was diagnosed as suffering from paraphoria and with the agreement of her family admitted to a hospital for treatment. She was discharged from the hospital on 16 June 2000. On 3 April 2001, the Nanjing city labour re-education department ordered her to serve one year and six month's labour re-education in relation with her adherence to Falun Gong. Her term was subsequently extended. She was due to be released in the near future.

432. By letter dated 9 January 2003, the Government responded to a communication sent by the Special Rapporteur on 2 September 2002 and provided information on the following individual cases:

433. Concerning **Li Wangyang** (E/CN.4/2003/68/Add.1, para. 291), the Government informed the Special Rapporteur that he suffered from a disorder of hyperthyroidal function and that his eyesight and hearing had become impaired. The Chishan prison authorities provided him with medical treatment and transferred him to Loacan prison to convalesce and to be exempted from physical labour. Allegations of ill-treatment are unfounded.

434. Concerning **Xu Jian** (ibid., para. 292), the Government informed the Special Rapporteur that he his health was good.

435. Concerning **Hélène Petit** (ibid., para. 294), the Government informed the Special Rapporteur that the action by law enforcement authorities in removing her from the square were in accordance with the law and that she was treated in a humanitarian fashion. Allegations of torture are unfounded.

436. Concerning **He Zhihong** (ibid., para. 295), the Government informed the Special Rapporteur that she was serving her term of labour re-education in a drug rehabilitation and labour re-education facility in Heilongjiang province and that her health was good.

437. Concerning **Tang Zengye** (ibid., para. 296), the Government informed the Special Rapporteur that she was serving her term of labour re-education in a drug rehabilitation facility in Heilongjiang province and that her health was good.

438. Concerning **Chen Yutao** (ibid., para. 297), the Government informed the Special Rapporteur that he was released on medical parole on 16 January 2002 after suffering a hypovolemic shock and developing renal insufficiency disorder.

439. Concerning **Wang Zhaohui** (ibid., para. 298), the Government informed the Special Rapporteur that he was serving his term in the Jiutai labour re-education facility and that his health condition was good.

440. Concerning **Chen Aizhong** (ibid., para. 299), the Government informed the Special Rapporteur that he underwent a hunger strike. The authorities provided him with medical assistance, including blood infusions and admission to the intensive care unit at Tangsham city people's hospital. However he died on 20 December 2001 of a collapse of his respiratory and circulatory systems and acute renal failure.

441. Concerning **Zhao Ming** (ibid., para. 300), the Government confirmed to the Special Rapporteur that he was released on 12 March 2002 on completion of his term of labour re-education.

442. Concerning **Zhang Yulan** (ibid., para. 303) and **Liu Xiuqin** (ibid., para. 304), the Government informed the Special Rapporteur that they hanged themselves on 21 June 2001. All efforts to save their lives proved unsuccessful.

443. Concerning **Shao Ying** (ibid., para. 305), the Government informed the Special Rapporteur that she was discharged on 21 August 2001 and that her health condition was good.

444. Concerning **He Miao** (ibid., para. 306), the Government informed the Special Rapporteur that she was serving her term of three years' labour re-education in the Wanjia labour re-education facility, Harbin city, and that her health condition was good.
445. Concerning **Gao Shuyan** (ibid., para. 307), the Government informed the Special Rapporteur that she was released on 20 September 2001.
446. Concerning **Guo Mingsia** (ibid., para. 308), the Government informed the Special Rapporteur that she was released on 18 January 2002 on completion of her term.
447. Concerning **Guo Hongyu** (ibid., para. 309), the Government informed the Special Rapporteur that she was released on 18 January 2002 on completion of her term.
448. Concerning **Tan Guizhen** (ibid., para. 310), the Government informed the Special Rapporteur that she was serving her term in the Wanjia labour re-education facility, Harbin city, and that her health condition was good.
449. Concerning **Hao Xiuzhi** (ibid., para. 311), the Government informed the Special Rapporteur that she was serving her term in a drug rehabilitation facility in Heilongjiang province and that her health condition was good.
450. Concerning **Shang Yuqiu** (ibid., para. 312), the Government informed the Special Rapporteur that she was serving her term in the Wanjia labour re-education facility, Harbin city, and that her health condition was good.
451. Concerning **Wu Jiyang** (ibid., para. 313), the Government informed the Special Rapporteur that she was released on 8 June 2001.
452. Concerning **Liu Fengzhen** (ibid., para. 314), the Government informed the Special Rapporteur that she was released on 11 December 2001 on completion of her term.
453. Concerning **Xie Jinxian, Wu Shulian and Cao Liandi** (ibid.), the Government informed the Special Rapporteur that she was serving her term in the Wanjia labour re-education facility, Harbin city, and that her health condition was good.
454. Concerning **Yang Huiling** (ibid.), the Government informed the Special Rapporteur that she was released on 13 October 2001 on completion of her term.
455. Concerning **Liu Dongyun** (ibid., para. 315), the Government informed the Special Rapporteur that she was released on 19 June 2002.
456. Concerning **Lei Chuanqing** (ibid., para. 316), the Government informed the Special Rapporteur that she was released on 20 December 2001 on completion of her term.

457. Concerning **Wang Guihua** (ibid., para. 317), the Government informed the Special Rapporteur that she was released on 6 July 2001.

458. Concerning **Li Lan** and **Lu Shiping** (ibid., para. 318), the Government informed the Special Rapporteur that they were serving their terms in the Wanjia labour re-education facility, Harbin city, and that her health condition was good.

459. Concerning **Ding Yanhong** (ibid., para. 319), the Government informed the Special Rapporteur that she was released on 3 June 2002 on completion of her term.

460. Concerning **Pan Xuanhua** (ibid., para. 320), the Government informed the Special Rapporteur that she was released on 16 August 2001.

461. Concerning **Zhang Hong** (ibid., para. 320), the Government informed the Special Rapporteur that she was serving her term in the labour re-education facility in Jiamusi city and that her health condition was good.

462. Concerning **Zuo Xiuyun** (ibid., para. 320), the Government informed the Special Rapporteur that she was released on 14 September 2001.

463. Concerning **Wang Fang** (ibid., para. 320), the Government informed the Special Rapporteur that she had been released on completion of her term.

464. Concerning **Tao Hongsheng** (ibid., para. 322), the Government informed the Special Rapporteur that when he entered the Shijiazhuang city labour re-education facility, he was suffering from acute nephritic syndrome and that the facility authorities arranged consultations with medical practitioners for him. However, he refused any treatment. He was therefore released on medical parole. He died of his illness on 20 September 2000 at home.

465. Concerning **Yu Shuzhen** (ibid., para. 325), the Government informed the Special Rapporteur that she was serving her term in the labour re-education facility in the Masanjia labour re-education and that her health condition was good.

466. By letter dated 28 January 2003, the Government provided information concerning a letter sent on 2 December 2002 concerning **Luo Rong** (also known as Yoko Kaneko) and **Luo Zhen** (E/CN.4/2003/68/Add.1, para. 350).

467. Concerning Luo Rong, the Government informed the Special Rapporteur that she was ordered to serve one year and six months' labour re-education, to run from 24 June 2002 to 23 November 2003 for conducting activities in a number of places in the Ganjiakou area of Haidian district in Beijing, which obstructed the enforcement of Chinese law and caused disturbances of the peace. On 16 July 2002 she was admitted to the Beijing women's labour re-education facility to serve her term. After entering the facility, in her medical check-up, Luo was diagnosed as suffering from high blood pressure; the labour re-education facility at once arranged that she receive prompt treatment and her medical condition was efficiently brought under control. In August 2002, in accordance with the relevant provisions, the labour re-education facility also arranged for Luo Rong's Japanese husband, Atsushi Kaneko, to come to China to see his wife. Luo has herself acknowledged that her

activities were in breach of the relevant laws and regulations and is currently applying herself seriously to the process of reform through re-education and making every effort to have her date of release brought forward.

468. Concerning Luo Zhen, the Government informed the Special Rapporteur that she following an investigation, Luo made a full confession that she had been involved in the production and dissemination of Falun Gong materials. On 15 November 2002, the Mudanjiang city labour re-education committee ordered Luo to serve two years' labour re-education. On 20 November, because she had contracted a number of medical disorders, arrangements were made on humanitarian grounds for her to serve her term outside the facility.

469. The Government stated that China was one of the first countries to become party to the Convention against Torture. The prevention of torture and other cruel, inhuman or degrading treatment or punishment is a position to which China is deeply committed. The Chinese Criminal Code, the Chinese Code of Criminal Procedure, the Chinese Police Act and other statutes all contain extremely strict provisions to prevent torture and to preclude and punish the perpetration by State officials, in particular members of the judiciary, of acts of torture or other cruel, inhuman or degrading treatment or punishment and to safeguard the lawful rights and interests of citizens in custody or serving sentences.

470. The Government stated that China is a country governed by the rule of law. Chinese law fully protects the lawful rights and interests of persons undergoing labour re-education and the principle followed by all labour re-education facilities in their work is to educate, correct and reform those in their charge; in dealing with such persons, the methods applied are legally, culturally and scientifically sound and no form of corporal punishment or ill-treatment is ever used against those undergoing labour re-education. At the same time, in the application of labour re-education, full use is made of such procedures as the remission of terms, permitting the serving of terms of labour re-education outside the custodial facility, bringing forward the date of release and other such measures, to ensure that those undergoing such education are reformed to the fullest possible extent.

471. By letter dated 25 February 2003, the Government responded to a joint urgent appeal sent with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on 11 December 2002 concerning **Yang Jianli** (ibid., para. 351). The Government informed that his case was being under investigation in accordance with the law.

Observations

472. The Special Rapporteur hopes that the pending invitation to him to visit the country will come to fruition in the near future.

Colombia

473. Por carta de fecha 4 de junio de 2003, el Relator Especial notificó al Gobierno que había recibido información según la cual **Carlos Antonio Madero, Carlos Ramírez, Orlando Sáenz, William Ariza, Martín Emilio Rondón, Richard Díaz, Alexander Torres, Pedro Zambrano y Dario Barrera**, todos

trabajadores petroleros afiliados a la Unión Sindical Obrera-Central Unitaria de Trabajadores (USO-CUT), habrían resultado heridos por perdigones, gases lacrimógenos y golpes con culatas y bayonetas de fusiles el 21 de febrero de 2003 en Barrancabermeja, departamento de Santander. Otras nueve personas afiliadas a este sindicato habrían sido detenidas. Los hechos habrían ocurrido cuando efectivos del Ejército Nacional de Colombia habrían ingresado en las instalaciones de la Empresa Colombiana de Petroleros (ECOPETROL) bajo las instrucciones del presidente de la empresa.

474. Por la misma carta, el Relator Especial también notificó al Gobierno que había recibido información sobre las condiciones de detención en la **penitenciaría de alta seguridad de Valledupar**. Se alega que el centro presentaría falta de higiene y de garantías para la salud de los presos y que éstos no recibirían los servicios médicos adecuados. Los presos también tendrían serias dificultades para obtener los servicios jurídicos a los que tienen derecho en virtud de los tratados internacionales suscritos por Colombia. De acuerdo con la información recibida, los funcionarios del centro penitenciario estarían involucrados en el supuesto entorpecimiento del procedimiento administrativo. Las reclamaciones de los detenidos serían ocultadas a los organismos de control por parte de la dirección del centro. Los detenidos también tendrían un acceso muy limitado, cuando no inexistente, a sus familias. A pesar de las medidas de seguridad supuestamente excesivas, se alega además que los presos vivirían constantemente en una situación de inseguridad y que los presos supuestamente detenidos por motivos políticos serían sometidos a hostigamientos y amenazas por parte de otros detenidos. Asimismo, violentos enfrentamientos entre supuestos miembros de la guerrilla y grupos armados también habrían causado víctimas. Las condiciones de vida en la penitenciaría de Valledupar fueron el objeto de un informe de la Defensoría del Pueblo en junio de 2001, pero sus recomendaciones no habrían sido debidamente consideradas.

475. En este contexto, el Relator Especial recibió información según la cual, **Luis Fernando Beltran, Luis Alfonso Hernández y Gilberto Ospina**, presos en la Torre n.º 1 de la penitenciaría de Valledupar, habrían sido amenazados y golpeados por funcionarios del centro el 7 de junio de 2002. Luis Alfonso Hernández habría sido apuñalado con un cuchillo por uno de los funcionarios. La agresión habría tenido lugar poco después de que estos tres detenidos hubieran solicitado al director de la penitenciaría ser trasladados a otra parte del centro por temor a ser atacados por otros presos.

476. Por carta de fecha 29 de julio de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, notificó al Gobierno que había recibido información según la cual **Luis Fernando Preciado**, preso en la torre n.º 1 de la penitenciaría de alta seguridad de Valledupar, habría sido golpeado por oficiales del centro el 6 de marzo de 2002. Unas horas después de que se hubiera quejado porque un comandante no le habría autorizado a realizar una llamada telefónica a su familia, alrededor de cinco comandantes y cinco oficiales habrían penetrado en su celda. Habrían atado sus manos y pies con cadenas y lo habrían golpeado repetidamente. Más tarde el preso habría vomitado sangre y habría sido trasladado. Habría fallecido en la madrugada del 8 de marzo de 2002. Una necropsia realizada este mismo día habría evidenciado lesiones traumáticas en diversas partes del cuerpo y habría sugerido que el detenido habría fallecido por

“insuficiencia respiratoria aguda, tipo asfixia mecánica debido a la invasión, compresión y desplazamiento por parte de los órganos intrabdominales hacia el tórax, a través de una hernia diafragmática preexistente y agudizada por traumatismo abdominal cerrado (mecanismo contundente)”.

477. Por carta de fecha 27 de noviembre de 2003, el Gobierno informó que se adelantó una investigación disciplinaria en contra de funcionarios del Instituto Nacional Penitenciario de Colombia (INPEC). El conocimiento del asunto fue asumido por la Procuraduría General de la Nación. Se impuso una medida de aseguramiento sin beneficio de libertad provisional a cinco miembros del INPEC en calidad de coautores de homicidio preterintencional.

478. Por carta de fecha 8 de octubre de 2003, el Relator Especial recordó al Gobierno varios casos transmitidos en 2001 y 2002 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

479. El 22 de mayo de 2003, el Relator Especial envió un llamamiento urgente sobre la situación de **José Maximiliano González Suárez**, miembro de la Unión Patriótica (UP) y vicepresidente de la Junta de Acción Comunal del corregimiento de Montoso, municipio de Prado, departamento del Tolima, quien se encontraría en paradero desconocido desde el 13 de mayo de 2003. Se alegó que podría estar bajo la custodia de la Sexta Brigada del Ejército Nacional, que estaría llevando a cabo un operativo militar en los municipios de Prado, Dolores y Villarrica de este mismo departamento. Durante este operativo, varios habitantes, entre los cuales **Guillermo Triana, José Naranjo, Álvaro Herrera y Jairo Cáceres**, habrían sido acusados de colaborar con la guerrilla y habrían sido golpeados por los militares. José Maximiliano González Suárez habría sido inicialmente detenido en un caserío de Aco, donde su esposa, habría podido verle el 11 de mayo de 2003. Se alega que el marido tenía la cara hinchada y manchas de sangre en diversas partes del cuerpo. Unos campesinos lo habrían visto por última vez el 13 de mayo 2003 cerca del caserío Buenos Aires junto a un grupo de soldados.

480. El 9 de septiembre de 2003, el Relator Especial envió un llamamiento urgente, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación con la situación de los habitantes de los barrios de El Chico y Provivienda, en Barrancabermeja y de activistas de derechos humanos, sindicales y comunitarios de Barrancabermeja. **José Armando Garzón Rueda**, activista comunitario, **Álvaro Enrique Vergara Muñoz, María Yaneth Mosquera Guerra, Erasmo Pedraza Álvarez, José Cicero López, Jhon Jairo**, otro hombre conocido como “**Cocho**” y **Muccyney Jair España** habrían sido secuestrados entre el 21 y el 27 de agosto de 2003 en sus casas o lugares de trabajo por miembros de las Autodefensas Unidas de Colombia (AUC), un grupo paramilitar supuestamente respaldado por el ejército. De acuerdo con la información recibida, el paradero de todas estas personas seguía siendo desconocido. **Julia Serra**, la esposa de José Armando Rueda, habría sido amenazada a punta de pistola cuando su marido habría sido sacado por la fuerza de su casa. Asimismo, el 24 de agosto de 2003, Frenyi Daniel Jiménez habría sido sacado de su casa por miembros de las AUC e interrogado antes de ser nuevamente puesto en libertad.

Seguimiento de comunicaciones transmitidas previamente

481. Por cartas de 19 de diciembre de 2002 y 9 de abril de 2003, el Gobierno respondió a un caso incluido en la carta enviada por el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, el 2 de septiembre de 2002, sobre los **incidentes ocurridos en la vereda la Diana, municipio de Florida** (E/CN.4/2003/68/Add.1, párr. 376). En relación con los hechos ocurridos el 19 de noviembre de 2002, el Gobierno informó que según las necropsias practicadas por el Instituto Nacional de Medicina Legal de Palmira, la causa de las muertes fue disparos con arma de fuego. El Gobierno también informó que no se presentó denuncia formal por estos homicidios y que la investigación se inició de oficio. Inicialmente la conoció la Fiscalía Segunda de la Unidad Nacional de Derechos Humanos y por competencia fue remitida a la Fiscalía 10 Especializada de Cali. En el momento de transmitir esta respuesta al Relator Especial, la investigación se encontraba en estado de previas. El caso habría sido asimismo denunciado por las autoridades judiciales ante la Personería, la Procuraduría del Valle y ante la Defensoría del Pueblo Regional. En relación con los hechos ocurridos el 16 de enero de 2002, el Gobierno informó que la policía del Valle se comprometió a efectuar patrullajes esporádicos. Por otra parte, el Departamento Administrativo de Seguridad rindió un informe sobre los antecedentes ocurridos en este caso. Asimismo, la Inspección General de las Fuerzas Militares y de la Inspección General del Ejército informó sobre las medidas tomadas para neutralizar los grupos armados que actúan al margen de la ley y garantizar la seguridad de la población civil. En relación con **Bertulfo Hincapié Machin, Ferney Trochez Labio** y otros, el Gobierno informó de que las investigaciones penales por homicidio estaban a cargo de la Fiscalía General de la Nación. El Instituto Nacional de Medicina Legal y Ciencias Forenses de la Unidad Local de Palmira realizó las correspondientes necropsias. De acuerdo a las pruebas recopiladas se señalaba como autores de la masacre a las AUC, pero hasta la fecha no se había identificado a los autores. La investigación no se había terminado ya que faltaban pruebas por practicar.

482. Por carta de 7 de enero de 2003, el Gobierno respondió a un llamamiento enviado juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas el 5 de junio de 2002 sobre **Rigoberto Medina Dagua y Wellinton Medina Dagua** (ibíd., párr. 378). El Gobierno informó de que el Ministerio del Interior requirió mediante oficio a la Oficina de Derechos Humanos del Ministerio de Defensa Nacional y a la Fiscalía de la Nación que se verificara la información. Según la Procuraduría General de la Nación se adelantó investigación disciplinaria en la Delegada Disciplinaria para los Derechos Humanos, la cual se encontraba en etapa de indagación preliminar. El Gobierno informó igualmente de que la Personería Municipal de Jamundi recibió declaración juramentada de Wellington Medina Dagua y Rigoberto Medina Dagua, dentro del procedimiento de investigación de carácter averiguatorio por presunta falta disciplinaria.

483. Por carta de 25 de febrero de 2003, el Gobierno respondió a un llamamiento enviado juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria el 2 de diciembre de 2002 en relación

con la situación de **Telberto González** (ibíd., párr. 385). El Gobierno confirmó que fue retenido el 31 de octubre de 2002. La situación jurídica se resolvió con detención preventiva sin beneficio de excarcelación. Sin embargo, en atención a su edad, se consideró pertinente cambiar su sitio de reclusión por el lugar de su domicilio. El Fiscal 10 Seccional de Corozal, Sucre, ordenó suspender la detención preventiva domiciliaria. Durante la indagatoria, Telberto González fue asistido por funcionarios de la Defensoría del Pueblo regional y de la Procuradora Judicial 299 Penal. El Gobierno aseguró que según afirmó Telberto González, no fue objeto de malos tratos. Cuando el Gobierno proporcionó esta información, ya se encontraba en libertad.

484. Por carta de 25 de febrero de 2003, el Gobierno proporcionó información sobre los siguientes casos incluidos en una comunicación enviada por el Relator Especial el 2 de septiembre de 2002 (ibíd., párrs. 360 y ss.).

485. En relación con el caso de **Oveimar Vega González, Heidi Vega González, un menor de edad, Edgar Amado Flórez y Sergio N.** (ibíd., párrs. 366 y 367), el Gobierno informó que un expediente sobre presuntos malos tratos sobre dichas personas se encuentra en estudio preliminar ante la Procuraduría Delegada Disciplinaria para los Derechos Humanos. Informó igualmente de que no se han iniciado investigaciones penales por los hechos.

486. En relación con el caso de **José Abelardo Ordoñez** (ibíd., párr. 368), el Gobierno informó que el caso estaba ante el Juzgado Penal Municipal del Circuito de Santander de Quilichao.

487. En relación con el caso de los **indígenas de la comunidad U'wa** (ibíd., párr. 373), el Gobierno informó que se trató en repetidas ocasiones de lograr conciliación con los indígenas para lograr el desbloqueo de la vía, debiendo finalmente proceder por medio de gases lacrimógenos, sin que se hubiera presentado ningún lesionado. Un bebé de cuatro meses habría fallecido cuando su familia cruzaba por el río Obaría, al ser arrebatada por la fuerza de las aguas. Se inició una investigación penal en relación con esta muerte. No se conoce de investigaciones por muerte de otras personas pertenecientes a esa comunidad.

488. Por cartas con fechas 19 de diciembre de 2002 y 5 de diciembre de 2003, el Gobierno respondió a una carta enviada por el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, el 10 de agosto de 2001 (E/CN.4/2002/76/Add.1, párrs. 379 y ss.).

489. En relación con el caso de **Miguel Ángel Guzmán Usura, Álvaro Guzmán Pérez, Jaime Guzmán Silva y Juan Carlos Quiroz Higueta** (ibíd., párr. 384), el Gobierno informó que la Fiscalía seccional de Santafé de Antioquia inició una investigación y que las diligencias se pasaron a la Fiscalía especializada de Medellín el 19 de mayo de 2002.

490. En relación con el caso de **Diego Arnulfo Tamayo, Eric Tamayo, Germán Valenzuela y Dagoberto Velasco** (ibíd., párr. 385), el Gobierno informó que el 13 de junio de 2002 la Procuraduría General de la Nación adelantó una investigación disciplinaria que se encontraba en etapa de indagación preliminar. La Unidad de

Apoyo de la Unidad Nacional de Derechos Humanos también adelantó una investigación previa.

491. En relación con los hechos ocurridos en la **Cárcel Nacional Modelo de Bogotá**, el 27 de abril de 1999 (ibíd., párr. 386), el Gobierno informó que tras el incidente se realizó una operación en coordinación con distintas fuerzas durante la cual se incautaron varias armas, equipos de comunicación, explosivos y drogas alucinógenas. El Gobierno indicó igualmente que se habían ejercido mayores controles para garantizar la seguridad de los presos. Asimismo, un grupo de internos sindicados de rebelión y paramilitarismo fue trasladado con el fin de evitar nuevos incidentes y se inició un proceso de clasificación de los internos atendiendo criterios de edad y tipo de delito. Además se trasladó personal de guardia, se retiró personal involucrado en los hechos y se creó un comité para adelantar la reestructuración de las áreas administrativas y del Cuerpo de Custodia y Vigilancia. Se iniciaron investigaciones penales y disciplinarias internas. Se adelantó una investigación contra un mayor general en su condición de comandante operativo de la policía y contra un brigadier general en su condición de comandante del Departamento de Policía Metropolitana de Bogotá. La indagación preliminar terminó en archivo el 19 de diciembre de 2000 por falta de mérito. Otra investigación contra un teniente en su condición de Director de la Cárcel Nacional Modelo de Bogotá terminó en archivo el 3 de septiembre de 2002 por falta de mérito. En relación con las medidas cautelares solicitadas por la Comisión Interamericana de Derechos Humanos, se autorizó la construcción de un muro divisorio entre los patios norte y sur para separar los diferentes tipos de presos.

Observaciones

492. El Relator Especial quisiera llamar la atención sobre algunos de los motivos de preocupación expresados por el Comité contra la Tortura (CAT/C/CR/31/1, párrs. 8 y 10), en particular, el Comité manifestó su preocupación por el gran número de actos de tortura y malos tratos supuestamente cometidos de manera generalizada y habitual por las fuerzas y cuerpos de seguridad del Estado en el Estado Parte, tanto en operaciones armadas como fuera de ellas; por las alegaciones de tolerancia, apoyo o aquiescencia por parte de los agentes del Estado Parte en relación con las actividades de los miembros de grupos paramilitares, denominados “autodefensas”, autores de un gran número de torturas y malos tratos; y por el hacinamiento y las malas condiciones materiales que prevalecen en los establecimientos penitenciarios, que podrían equivaler a tratos inhumanos e degradantes.

Congo

493. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu’il avait envoyés en 1999, au sujet desquels il n’avait pas reçu de réponse.

Côte d’Ivoire

494. Par une lettre datée du 17 septembre 2003, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a informé le gouvernement qu’il avait reçu des renseignements selon lesquels **une soixantaine de gendarmes accompagnés d’une**

cinquantaine de leurs enfants et de quelques autres civils auraient été arrêtés dans leur caserne par des membres armés du Mouvement patriotique de Côte d'Ivoire (MPCI) le 6 octobre 2002, à Bouaké. Ces personnes auraient été conduites à la prison du camp militaire du 3^e bataillon d'infanterie. Des membres armés du MPCI seraient entrés à plusieurs reprises dans la prison et y auraient tiré des coups de feu en rafale, tuant et blessant des dizaines de détenus. Les survivants seraient restés deux jours avec les blessés et les cadavres en décomposition sans recevoir de nourriture. Certains survivants auraient été contraints de transporter les cadavres et de les enterrer dans des fosses collectives et une dizaine d'entre eux auraient, selon ce qui a été rapporté, été tués sur place après qu'ils eurent enterré leurs camarades.

495. Par une lettre datée du 15 décembre 2003, le gouvernement a confirmé ces allégations. Il a en outre informé que des informations ont été ouvertes par le procureur de la République et le commissaire du gouvernement respectivement au cabinet d'instruction n^o 8 du tribunal de première instance d'Abidjan-Plateau et devant le juge d'instruction militaire sur les différents cas de violation des droits de l'homme. Les agents enquêteurs et les magistrats ont rencontré de sérieuses difficultés à faire leur travail en raison de la partition de fait du pays. Les enquêtes étant donc toujours en cours et les auteurs présumés en zone rebelle, aucune sanction pénale ou disciplinaire n'avait pu être prononcée. Le gouvernement a également informé que d'autres forces de défense nationale avaient été tuées en situation de non-belligérance.

496. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 2001, au sujet desquels il n'avait pas reçu de réponse.

Suite donnée aux plaintes signalées dans des communications précédentes

497. Par une lettre datée du 18 août 2003, le gouvernement a informé le Rapporteur spécial que les cas rappelés au gouvernement dans la lettre du Rapporteur spécial datée du 17 octobre 2002 (E/CN.4/2003/68/Add.1, par. 391) feront l'objet d'une vérification.

Croatia

498. By letter dated 4 June 2003, the Special Rapporteur advised the Government that he had received information concerning **Tomica Bajsic**, in detention in Karlovac County Prison. He allegedly fell into a coma in the night of 10 June 2001 but was reportedly not transported to a local hospital until several hours later. He was subsequently reportedly taken to the Zagreb Prison Hospital, which allegedly refused to admit him as it was not equipped to deal with patients in such a serious condition. It is reported that he was subsequently taken—reportedly back in a coma—to Dubrava general hospital in Zagreb. Tomica Bajsic's family was only given permission to see him on 13 June 2001, by which time he had regained consciousness again. According to the information received, he has been suffering from memory loss since this incident. His family reportedly claim that they saw several bruises on his neck, forehead, chest and arms. A medical examination of Tomica Bajsic by a team of three forensic experts reportedly found that he had suffered a cerebral coma but failed to establish the cause. Meanwhile, a separate investigation was reportedly initiated by the Office for the Execution of Penalties of the Justice Ministry.

499. By letter 26 August 2003, the Government responded that the results of a medical expertise concluded that the cause of the coma was an epileptiformic attack and that his medical condition was the result of some earlier brain trauma. According to the investigations conducted by the Ministry of Justice, Public Administration and Local Self-Government, he had not been subjected to any use of force or ill-treatment.

Cuba

500. Por carta de fecha 8 de octubre de 2003, el Relator Especial recordó al Gobierno un caso transmitido en 2001 respecto al cual no había recibido respuesta.

Llamamientos urgentes

501. El 3 de marzo de 2003, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión, la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos en relación con la situación de **Leonardo Miguel Bruzón Ávila**, presidente de la organización Movimiento Pro Derechos Humanos 24 de Febrero, quien estaría detenido desde el 23 de febrero de 2002, supuestamente para impedir su participación en las actividades de conmemoración de los hechos ocurridos el 24 de febrero de 1996. No se le habría imputado ningún cargo ni se habría fijado fecha para su juicio. Un llamamiento urgente en relación con su situación ya había sido transmitido el 30 de octubre de 2002(E/CN.4/2003/68/Add.1, párr. 405). Leonardo Bruzón habría empezado una huelga de hambre el 7 de diciembre de 2002. Se le habría negado el tratamiento médico especializado que requeriría su estado de salud.

502. Por carta de 11 de marzo de 2003, el Gobierno contestó que Leonardo Miguel Bruzón Ávila había gozado de todos los beneficios del debido proceso y que las alegaciones de supuestos malos tratos y de negación de atención médica eran falsas.

503. El 21 de julio de 2003, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión y la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria en relación con la situación de **Oscar Manuel Espinosa Chepe**, quien habría sido detenido el 19 de marzo de 2003 y condenado a 20 años de prisión por delitos de “actos contra la independencia o la integridad territorial del Estado e infracciones penales de la Ley 88 de 1999”. Habría sido ingresado en el Hospital Militar de La Habana por síntomas de crisis hepática el 20 de abril de 2003 y tres días más tarde, habría sido trasladado a la Prisión Provincial de Guantánamo, a más de 900 kilómetros de su residencia. Debido a su frágil estado de salud, a partir de mayo de 2003, habría sido ingresado en distintos hospitales. Sin embargo, su salud habría continuado deteriorándose y no habría recibido la atención médica necesaria para tratar la crisis de cirrosis hepática que padecería. Las condiciones higiénico-sanitarias en el Hospital Ambrosio Grillo, al que habría sido trasladado, serían preocupantes, con frecuentes cortes del fluido eléctrico. Los enfermos recibirían una alimentación deficiente, las instalaciones, en particular los baños y los retretes, se mantendrían sucios y el agua supuestamente potable estaría contaminada. Desde su

detención, los contactos de Oscar Manuel Espinosa Chepe con su familia habrían sido limitados.

504. En el mismo llamamiento urgente, el Relator Especial señaló que había recibido información según la cual **Nelson Alberto Aguiar Ramírez**, presidente del Partido Ortodoxo Cubano (POC) condenado a 13 años de privación de libertad, se encontraba preso en régimen de máxima seguridad en la prisión Boniato de Santiago de Cuba, donde estaría encerrado en una celda de cuatro metros cuadrados sin fluido eléctrico ni agua potable, infestada por insectos y roedores así como malos olores. El preso padecería de retención de orina, inflamación en las piernas, problemas de próstata y circulación, infección en la piel e hipertensión. No habría recibido los medicamentos proporcionados por su esposa.

505. Finalmente, en este mismo llamamiento urgente, el Relator Especial señaló que recibió información sobre la situación de **Marta Beatriz Roque**, quien estaría cumpliendo una condena de 20 años de privación de libertad y mantenida en régimen de aislamiento en la prisión de Manto Negro. Desde su encarcelamiento habría adelgazado 15 kilos y estaría padeciendo de hipertensión, problemas de circulación y de una úlcera. No recibiría la medicación necesaria a su estado de salud.

506. Por cartas de 6 de octubre de 2003, el Gobierno informó que en relación con el caso de Marta Beatriz Roque Cabello son falsas las alegaciones sobre malos tratos en prisión y falta de tratamiento médico. Entre marzo y julio de 2003 recibió 19 consultas médicas, pero a partir de julio empezó a rechazar la atención médica y los alimentos suministrados en la prisión. Fue trasladada al hospital el 22 de julio de 2003. Durante su detención permaneció en contacto periódico con sus familiares. En relación con Oscar Manuel Espinosa Chepe, el Gobierno informó de que al conocer sus antecedentes clínicos, facilitados por su familia, las autoridades lo trasladaron a diversos hospitales. Las alegaciones sobre desatención médica eran infundadas. El detenido se negó a realizar algunas pruebas médicas. También eran infundadas las alegaciones de maltratos o abusos por parte de las autoridades médicas y penitenciarias. El Gobierno indicó igualmente que eran falsas las alegaciones según las cuales habría sido sometido a un juicio injusto. Por carta de 12 de diciembre de 2003, el Gobierno informó, en relación con el caso de Nelson Alberto Aguiar Ramírez, que no existió evidencia o sospecha creíble de coacción, presión o malos tratos, antes y durante su permanencia en prisión. Indicó igualmente que eran falsas las alegaciones respecto a las malas condiciones de reclusión y la falta de atención y tratamiento médico. Según el Gobierno, las condiciones de detención correspondían con las normas establecidas en el sistema penal cubano, que garantizan las necesidades indispensables de iluminación e higiene para los presos, las que a su vez, respetan y observan las Reglas mínimas de Naciones Unidas para el tratamiento de reclusos y el régimen penitenciario. En cuanto a las alegaciones según las cuales no se le entregaron los medicamentos proporcionados por su esposa, el Gobierno informó que por razones de seguridad, la automedicación de los reclusos no está, por lo general, permitida.

507. El 1.º de septiembre de 2003, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre la promoción y la protección del derecho a la libertad de opinión y de expresión según el cual **Mario Enrique Mayo**, **Adolfo Fernández Sainz**, periodistas, e **Iván Hernández Carrillo**, periodista y militante del Partido por la Democracia Pedro Luis Boitel, todos ellos internos del

Centro Penitenciario de Holguin, estarían en huelga de hambre desde el 15 de agosto de 2003, como protesta por la falta de medicamentos y de alimentación adecuada que padecerían los presos con enfermedades crónicas en el centro penitenciario antes citado. Mario Enrique Mayo y Adolfo Fernández habrían sido trasladados a la unidad de cuidados médicos de la cárcel. Su estado de salud se habría deteriorado seriamente.

508. Por carta de 12 de diciembre de 2003, el Gobierno informó que estas personas recibieron atención médica acorde a sus necesidades. Enrique Mayo fue operado después de que se le diagnosticaron hemorroides. Hernández Carrillo recibió tratamiento médico y un control sistemático de su presión arterial. A pesar de rechazar la alimentación ofrecida por el centro penal, los presos siguieron recibiendo la comida suministrada por sus familiares.

Seguimiento de comunicaciones transmitidas previamente

509. Por cartas de 7 de enero de 2003, el Gobierno proporcionó información sobre varios casos transmitidos por el Relator Especial en su comunicación del 2 de septiembre de 2002 (E/CN.4/2003/68/Add.1, párrs. 397 y ss.).

510. En relación con **Bernardo Arévalo Padrón** (ibíd., párr. 399), el Gobierno informó que organizó y participó en acciones subversivas. Bernardo Arévalo Padrón contó con las garantías necesarias en respeto al principio de debido proceso y durante su permanencia en prisión no fue objeto de agresión física alguna. Desde su ingreso en prisión se le realizaron tres controles médicos y su estado físico y mental era compatible con el régimen penitenciario. El Gobierno también indicó que el régimen de mínima severidad le fue revocado en junio de 2002 por no respetar el reglamento disciplinario.

511. En relación con **Eddy Alfredo Mena González** y **Néstor Rodríguez Lovaina** (ibíd., párr. 400), el Gobierno informó que Néstor Rodríguez Lovaina agredió otro recluso con el que sostuvo una riña. Fue ingresado en el hospital y recibió los cuidados médicos necesarios. Se formuló una denuncia contra el otro recluso implicado pero Néstor Rodríguez Lovaina no se presentó al juicio. Habría iniciado huelgas de hambre en dos ocasiones, de las cuales desistió voluntariamente. El Gobierno indicó que no existía fundamento alguno para sustanciar alegaciones de tortura o malos tratos contra Eddy Alfredo Mena González y Néstor Rodríguez Lovaina.

512. Por carta de 24 de febrero de 2003, el Gobierno contestó a una comunicación enviada juntamente con el Relator Especial sobre las formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia el 12 de noviembre de 2002 sobre **Eduardo Luis Cepeda Álvarez** (ibíd., párr. 403). El Gobierno informó que nunca había sido detenido ni golpeado por agentes de la seguridad del Estado ni recibido insultos racistas. Las alegaciones sobre amenazas contra su familia serían igualmente falsas.

513. Por carta de 23 de mayo de 2003, el Gobierno contestó a un llamamiento urgente enviado juntamente con el Relator Especial sobre el derecho a la libertad de opinión de expresión y la Representante Especial del Secretario General sobre la situación los defensores de los derechos humanos el 25 de abril de 2002 a propósito de **Juan Carlos González Leiva**, **Jesús Álvarez Castillo** y otras personas

(ibíd., párr. 404) y sobre los casos relativos a estas personas incluidos en una carta enviada por el Relator Especial el 2 de septiembre de 2002 (ibíd., párr. 398). El Gobierno informó de que los agentes de policía intervinieron a solicitud de la dirección del hospital Lucaes Iraola para restablecer el orden y los servicios médicos. Los agentes policiales no ocasionaron ningún daño físico a los manifestantes. La Fiscalía realizó una investigación sobre los hechos ocurridos. Juan Carlos González Leiva se causó una autolesión, golpeando fuertemente su cabeza contra el marco de una puerta metálica. Fue trasladado a las instalaciones del órgano de instrucción judicial de la provincia de Holguín, donde se le puede ofrecer un tratamiento adecuado. Jesús Álvarez Castillo se opuso de manera violenta a su arresto. Según el Gobierno, su denuncia sobre lesiones en el momento de su detención era infundada.

Czech Republic

Follow-up to previously transmitted communications

514. By letter dated 31 January 2003, the Government provided information on the case of **Miriam Junker**, which was included in a communication sent by the Special Rapporteur on 10 August 2001. The Government reported that an inquiry undertaken by the Ministry of the Interior did not disclose any information concerning this case or any possible complaint lodged by her or on her behalf.

Observations

515. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Elimination of Racial Discrimination (CERD/C/63/CO/4, para. 11) about allegations of racially motivated ill-treatment, ineffective protection and discrimination against the Roma by law enforcement officials, especially the police. Furthermore, it has been suggested that allegations of abuse by law enforcement officials are not always promptly and impartially investigated.

Democratic Republic of the Congo

516. Par une lettre datée du 24 septembre 2003, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, a informé le gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

517. **Léopold Leti**, alias **Appo**, l'un des chefs de l'Union des patriotes congolais (UPC), un groupe armé, **Jimmy Banga**, **Donatien Kanyi-Ngiya**, administrateur de la ville d'Aru, **Leti**, un chauffeur au service d'une université de la ville d'Aru, **Avoti**, **Jean-Philibert Tshombe**, un dirigeant de l'UPC, ainsi que des dizaines de soldats et de civils auraient été arrêtés le 22 mai 2003, à la suite d'une tentative ratée de renverser la direction d'un groupe politique armé opérant dans la province d'Ituri. Les personnes détenues auraient été enfermées dans des conteneurs métalliques où ils auraient manqué d'air et aurait été soumis à de très hautes températures. Léopold Leti aurait été battu et aurait reçu des coups de couteau dans le dos et dans la nuque au moment de son arrestation. La plupart des détenus n'auraient pas eu accès à des soins médicaux ni auraient eu droit à recevoir de la nourriture. Le père **Jean Dhebo** aurait été violemment fouetté au cours de sa détention.

518. **Célestin Mafuluki Mukungo**, membre de la Police nationale congolaise (PNC) arrêté le 28 octobre 2000 par des membres de la Détection militaire des activités antipatrie (DEMIAP) sous les ordres d'un officier des Forces d'intervention spéciale (FIS), aurait été battu à plusieurs reprises avec des ceintures militaires et une barre de fer alors qu'il était par terre face contre terre, pieds et mains attachés.

519. **Gervais Baguma Safari, Depho Balungwe Birashirwa, Cyprien Bakenga Kakomore, Adolphe Bashizi Mufungizi, Marcellin Rugogero Kabuna, Muzima Mwenyezi, Henri Materanya Kasisi, Georges Yenga Muhindo, Yves Kompany Kizito, Vital Malekera Balolebwami, Joseph Balegamire Bafunyembaka, Pascal Marhegane Bishunvu, Bernard Bahaya Maheshe, André Ndjaki Munganga, Elias Kashindi Mubone, Théodore Basole Bazirabora, Jimmy Bisimwa Cubaka, Marcellin Cikuru Chambu et Justin Kikuni** auraient été arrêtés le 28 janvier 2001 à Brazzaville par la police congolaise et transférés le 29 janvier aux autorités de la République démocratique du Congo. Ils auraient été détenus au secret durant trois jours à la Direction de la sûreté intérieure (DSI). Ils auraient été battus à plusieurs reprises avec des ceinturons militaires, privés de nourriture et placés dans une cellule étroite avec une ventilation déficiente et très peu de lumière. Ils auraient ensuite été transférés au Centre pénitentiaire et de rééducation de Kinshasa (CPRK).

520. **Augustin Mudianji Nkashama** aurait été arrêté par des membres de la DEMIAP en juin 2000. Il aurait d'abord été interrogé dans les locaux de l'ancien hôtel Memling au sujet d'une réunion politique qui se serait déroulée chez son employeur. Il aurait été sévèrement fouetté avec des ceinturons et des cordes tressées. Il aurait également été blessé à la tête.

521. **Kikuni Masudi**, ancien membre du Groupe spécial de sécurité présidentielle, aurait été arrêté le 7 octobre 2000 par des membres de l'Agence nationale de renseignements (ANR) à Lubumbashi. Il aurait été ensuite emmené au Centre de détention de l'ANR où il aurait été fouetté et sévèrement battu avec des crosses de pistolet et des bâtons. Son bras et sa jambe gauches auraient été fracturés. Il aurait ensuite été aspergé d'huile de palme et forcé à s'asseoir sur un brasier. Ses pieds auraient été écrasés avec un marteau. Il aurait été régulièrement soumis à ce traitement durant sa détention jusqu'au 13 octobre 2000.

522. **Rachel Chakupewa** et sa nièce, **Marie Muzinga**, auraient été sévèrement battues dans la nuit du 6 au 7 février 2001 par des membres des forces de sécurité à l'hôtel Okapi à Kinshasa. Rachel Chakupewa aurait été fouettée durant plusieurs heures par cinq soldats avec un tube métallique.

523. **Vital Ntaboba Badheka**, étudiant, aurait été arrêté avec 11 autres étudiants le 16 novembre 2000 par des soldats du camp militaire de Kokolo. Les étudiants auraient été obligés de monter dans des camions, de fermer les yeux alors que des armes étaient pointées sur eux, et auraient été battus avec des ceinturons militaires. Au camp militaire où ils auraient été emmenés, ils auraient été soumis à des coups de fouet alors qu'ils étaient nus. Ils auraient également été forcés à faire des exercices physiques exténuants et à nettoyer des excréments à mains nues. Ils auraient été informés qu'ils seraient exécutés avant d'être reconduits à l'Institut pédagogique national (IPN) et remis en liberté.

524. **Kikumi Masudi** serait décédé la nuit du 13 octobre 2000 dans un cachot de l'ANR à Lumubashi où il aurait été détenu depuis le 7 octobre 2000. Il aurait été recruté par l'armée dans le Groupe spécial de sécurité présidentielle (GSSP) à son arrivée à Lubumbashi. Durant sa détention, il aurait été régulièrement battu par des agents de l'ANR qui lui auraient notamment administré des coups de marteau sur les pieds. Il aurait été obligé de s'enduire le corps d'huile de palme puis forcé à s'asseoir sur un four réchauffé. Aucune enquête n'aurait été ordonnée pour déterminer les circonstances de sa mort.

525. **Les enfants de Pierre Mpini Moke**, âgés entre 12 et 24 ans, auraient été sévèrement battus par des agents de l'ordre en faction devant leur résidence le 3 mars 2000. Son épouse, **Victorine Pasinya Mpini Moke**, aurait été emmenée à un cachot militaire du Groupe Litho-Moboti (GLM).

526. **Kalala Tshimpungu** aurait été arrêté le 22 juin 2001 à son domicile par des policiers du sous-commissariat Matadi à Masina, quartier III. Ligoté à un véhicule abandonné avec les mains derrière le dos, il aurait été sévèrement battu par cinq policiers pendant trois heures. Suite à ses blessures, il aurait perdu toute sensibilité au niveau des bras et serait dans l'incapacité de s'en servir.

527. **Rosy Mbangi Tshiswa** (f), étudiante, aurait été arrêtée à son domicile le 22 août 2001. Elle aurait été appréhendée en lieu et place de sa sœur aînée, employée au domicile de l'ancien Président Laurent Désiré Kabila. Rosy Mbangi Tshiswa aurait été jetée du deuxième étage pour avoir résisté aux militaires de la sécurité présidentielle et déclaré qu'elle n'était pas la personne recherchée. Elle se serait fracturée le bassin, l'avant-bras gauche et la jambe droite. Elle aurait été abandonnée par les militaires, alors qu'elle était blessée et sans connaissance.

528. **Joëlle Mobali Bintu** et son frère, **Mobali Tshufa**, auraient été arrêtés le 18 novembre 2001 à Kinshasa/Gombe par deux agents de sécurité en tenue civile. Ils auraient été tabassés avant d'être emmenés au Palais de marbre. Un officier de police judiciaire aurait ordonné de les battre à l'aide d'un tuyau en plastique. Ils auraient été placés dans une cave non éclairée. Ils auraient été relâchés le 19 novembre 2001. D'après le procès-verbal de leur arrestation, ils seraient accusés d'être rwandais et d'héberger chez eux des militaires rwandais.

529. **Pelagie (Peggy) Fononoko** et ses deux enfants, **Charlotte Atandjo Otshudi**, **Marcelline Lubiza Nabintu** et son enfant, **Coco Chibalonza Balole** et deux de ses enfants, **Angélique Bilbago**, auraient été arrêtés le 25 janvier 2001 et détenus au GLM. Ces personnes auraient reçu des coups de bâton, de cordelette, de câble électrique et de chaîne. Un militaire se serait servi d'une baïonnette pour couper les cheveux de Pelagie Fononoko et de sa fille âgée de deux ans. Ces femmes seraient toutes des épouses de militaires soupçonnés d'avoir participé à l'assassinat du Président Kabila.

530. **M. Kigombe** et **Shiko Shulungu** auraient été arrêtés le 23 juillet 2002 par les gardes du corps du commandant de brigade Herode et acheminés dans les cachots du Bureau II dans la région de Maniema où ils auraient été fouettés à mort pour n'avoir pas facilité le transfert de fonds de l'épouse du commandant se trouvant à Goma.

531. **Pierre Ngbutene Ngbende** serait mort en détention dans la nuit du 15 au 16 avril 2001. Cette même nuit, il aurait été emmené au quartier général de la DEMIAP à Kinshasa/Kitambo où il aurait été interrogé et agressé par des membres de l'ANR, des services de sécurité et de la DEMIAP. Il aurait été frappé et l'administrateur général en chef de l'ANR lui aurait fracassé le crâne contre un mur, ce qui aurait causé son décès.

532. **André Lungula** aurait été appréhendé le 9 septembre 2001 près de l'ambassade de France par un général et quatre soldats responsables de sa protection. Il aurait été forcé de sortir de son véhicule, accusé de «mobutiste», de rébellion et d'avoir voulu tuer le général Munene. Il aurait été fortement frappé et par la suite transporté à l'hôpital où il aurait été opéré d'une hémorragie interne. Il serait décédé le 10 septembre des suites de ses blessures.

533. Par une lettre datée du 26 septembre 2003, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la violence contre les femmes et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, a informé le gouvernement qu'il avait reçu des renseignements selon lesquels **Giselle Ngoy Kunda**, arrêtée le 24 août 2001, aurait été transférée tardivement de la prison de la DEMIAP, où elle était détenue, vers une clinique afin qu'elle puisse y recevoir les soins appropriés à son état avancé de grossesse. Elle aurait été emmenée le 3 octobre 2001 à la clinique Ngaliema dans une chambre placée sous la surveillance de deux militaires de la DEMIAP. Les autorités de la DEMIAP n'auraient pas accepté qu'elle soit hospitalisée plus tôt, malgré les signes allégués d'un accouchement proche. Les autorités de la prison lui auraient refusé la visite de son médecin traitant et n'auraient accepté que quelques visites rapides à la clinique des Anges à Kinshasa/Ngaliema et la consultation d'un infirmier du service de sécurité militaire. Depuis son arrestation, elle aurait été victime de mauvais traitements tels que privation de nourriture et de boisson, ainsi que des menaces et des intimidations. Les visites de sa famille lui auraient été interdites.

534. Par une lettre datée du 20 octobre 2003, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, a informé le gouvernement qu'il avait reçu des renseignements selon lesquels **Timothée Mbuya**, directeur de publication à l'Association africaine de défense des droits de l'homme (ASADHO)/Katanga, **Jean Claude Bakatunyingela**, chargé de l'environnement à l'ASADHO/Katanga, **René Ntumba**, **Jean Baptiste Kasongo**, **Justin Kashala**, **Agnès Manyonga**, et **Martin Tshibusu**, membres du Groupe d'action non violente évangélique (GANVE), et **Mick Kapembe**, de l'Association des enseignants du Congo (AECO), auraient été arrêtés le 8 Septembre 2003 à Lubumbashi par la police nationale alors qu'ils participaient à une manifestation. Ils auraient été battus, en particulier avec des bâtons, par les forces de l'ordre et détenus au sein du poste de police de Lubumbashi avant d'être mis en liberté le lendemain.

535. Par une lettre datée du 4 novembre 2003, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a informé le gouvernement qu'il avait reçu des renseignements selon lesquels **Richard Muhindo Bayunda**, directeur

général du Centre de recherche sur l'environnement, la démocratie et les droits de l'homme (CREDDHO), aurait été détenu et passé à tabac le 29 avril 2003 dans un cachot de la police à Goma, en relation avec ses activités de promotion et de protection des droits de l'homme.

536. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 1998 et 1999, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

537. Le 25 février 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, concernant des personnes condamnées dans le cadre du procès de l'assassinat du Président Laurent-Désiré Kabila se trouvant en détention au **pavillon 1 du Centre pénitentiaire et de rééducation de Kinshasa** (CPRK). Depuis deux ans, ces derniers se trouveraient enfermés dans leurs cellules respectives, desquelles ils ne seraient pas même autorisés à sortir pour faire leurs besoins. Contrairement au reste des prisonniers du CPRK, les détenus du pavillon 1 n'auraient pas le droit de communiquer avec l'extérieur et ne seraient pas autorisés à recevoir des visites de leurs avocats ni de leurs familles, qui ne seraient pas non plus autorisées à leur apporter de la nourriture en mains propres. La nourriture apportée par les familles serait déposée auprès des militaires, qui la remettraient aux détenus. Ne sachant pas la provenance de celle-ci, les prisonniers refuseraient de la manger. Certains détenus ne seraient pas en mesure de suivre le régime alimentaire prescrit pas des médecins.

538. Le 9 avril 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Président-Rapporteur du Groupe de travail sur la détention arbitraire et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, concernant **Jean-Pierre Muteba**, membre de la Nouvelle dynamique syndicale, qui aurait été arrêté le 18 mars 2003, après avoir dénoncé publiquement les pillages des ressources naturelles dans la province du Katanga. Il aurait été transféré à Kinshasa, où il aurait été détenu au secret à la direction de l'ANR n° 5, sans qu'aucune charge n'ait été retenue contre lui.

539. Le 13 juin 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, concernant **Elumba Mbombo, Alongileka Dukuma, Ngbate Dieudonné, Tangelo Bisako, Dessawe Roger, Tabala Raphaël**, et les militaires suivants: **Ndenge Mauris, Ebeka José, Mwanda Vnulu, Nzapa Kizito, Mupa Mbambala, Mukenge José, Mbashi Bangada Rumaliza, Ibenge Lima, Kawula Gbali** et **Nzoye Regina**. Ils auraient tous été arrêtés à Kinshasa en mars 2003 et transférés du cachot de la DEMIAP à la prison de Buluo à Likasi (province du Katanga) le 5 mai 2003, sans avoir été entendus par un magistrat. Ils seraient détenus à la prison de Buluo où ils seraient placés dans un régime dit cellulaire et n'auraient pas accès à l'air libre.

540. Par une lettre datée du 3 novembre 2003, le gouvernement a informé que le Ministère des droits humains était en train de mener des investigations en vue de vérifier ces allégations.

541. Le 2 juillet 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, concernant **Donatien Kisangani**, activiste et administrateur financier de SEDI, une ONG œuvrant pour la promotion et la protection des droits de l'homme à Uvira. Il aurait été arrêté le 27 juin 2003 près de la frontière congolo-burundaise et amené aux bureaux de la sécurité où un officier l'aurait giflé et aurait essayé de l'étrangler avec une corde. Il aurait été accusé par les services de sécurité d'appartenir au SLAP, un mouvement supposé pro-milicien Maï-Maï. Il serait détenu dans un cachot de l'auditorat militaire dans des conditions inhumaines. Il aurait, entre autres, des difficultés pour manger dues à des douleurs au cou.

542. Le 14 novembre 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, concernant le commandant **Dieudonné Amundala Kabengele**, ancien conseiller militaire de feu le Président Laurent-Désiré Kabila et ancien commandant de la région militaire du Bas-Congo. Il aurait été arrêté par des hommes en uniformes militaires à l'aéroport international de Ndjili, à Kinshasa, le 31 octobre 2003, alors qu'il retournait en République démocratique du Congo après quatre années d'exil. Il serait détenu au secret aux quartiers généraux des services militaires de sécurité connus comme le Département intérieur de la DEMIAP, à Kinshasa.

Djibouti

543. Par une lettre datée du 16 décembre 2002 et suite à une première lettre datée du 15 novembre 2002, le gouvernement a répondu à une lettre du 17 octobre 2002, dans laquelle le Rapporteur spécial rappelait au gouvernement un cas envoyé en 1999 pour lequel il n'avait pas obtenu de réponse (E/CN.4/2000/9, par. 352). Le gouvernement a affirmé que les conditions de détention dans la **prison de Gabode** répondaient aux normes et que les pouvoirs publics mettaient tout en œuvre pour améliorer la vie carcérale. Les personnes mentionnées dans la communication du Rapporteur spécial avaient toutes été libérées après avoir épuisé leurs peines ou avoir bénéficié d'une amnistie. **Abdi Hourifaneh Liban** était décédé le 12 mars 1999 à la suite d'une maladie. Le gouvernement a également informé que **Mohamed Daoud Chechem** se trouvait en bonne santé et à la tête d'un parti politique officiellement reconnu.

Dominican Republic

544. Por carta de fecha 19 de noviembre de 2003, el Relator Especial, juntamente con el Relator Especial sobre la promoción y protección 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 sobre la situación de los defensores de los derechos humanos, notificó al

Gobierno que recibió información según la cual actos de violencia habrían ocurrido el 11 de noviembre de 2003, durante la jornada nacional de protesta pacífica contra la política económica del Gobierno convocada por la Coordinadora de Unidad y Lucha, la cual agrupa organizaciones populares sindicales y estudiantiles. Se habrían reportado enfrentamientos entre manifestantes y las fuerzas del orden en la ciudad de Santo Domingo. En otras ciudades como Bonaó, Higüey, Santiago, Navarrete, Licey al Medio, Salcedo, Barahona, San Pedro de Macorís y Puerto Plata, el ejército y la policía habrían reprimido a los manifestantes con disparos de fusiles automáticos y escopetas. Siete personas habrían muerto, 60 habrían resultado heridas y otras 600 habrían sido detenidas. Entre los fallecidos se encontrarían **Alberto Arquino Marte, David Pérez Vásquez, Ramón Romero Pérez, Daniel Martínez** así como **un miembro de la policía nacional**. Igualmente se expresó preocupación en torno al presunto arresto de 135 activistas miembros de la Coordinadora de Unidad y Lucha.

545. Por carta de fecha 14 de octubre de 2003, el Relator Especial recordó al Gobierno un caso transmitido en 2002 respecto al cual no había recibido respuesta.

Ecuador

546. Por carta de fecha 8 de octubre de 2003, el Relator Especial recordó al Gobierno varios casos transmitidos en 1999, 2001 y 2002 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

547. El 5 de noviembre de 2003, el Relator Especial envió un llamamiento urgente juntamente con la Relatora especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación con la situación de **Wilmer Lucio León Murillo**, quien habría sido detenido, juntamente con otras tres personas, por agentes de la policía el 21 de julio de 2003 en Quevedo. Habrían sido introducidos en un vehículo de la policía y conducidos con la cabeza cubierta a un paradero desconocido a las afueras de Quevedo. Una vez llegados, les habrían tapado los ojos con papel de diario y cinta adhesiva. Wilmer Lucio León Murillo habría recibido golpes y patadas, habría sido atado y obligado a tumbarse en el suelo. Mientras dos agentes le habrían sujetado en esta posición, un tercero le habría tapado la boca e introducido agua en la nariz. Habría perdido el conocimiento. Unas horas más tarde habría sido conducido a una comisaría de policía y seguidamente puesto en libertad por decisión del procurador. El 24 de julio de 2003, Wilmer Lucio León Murillo habría presentado una denuncia por tortura y malos tratos y más tarde se habría iniciado una investigación contra los agentes implicados en este caso. Desde entonces, Wilmer Lucio León Murillo habría recibido amenazas de muerte en varias ocasiones.

548. El 1.º de diciembre de 2003, el Relator Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación con la situación de **Jhonny Elías Gómez Balda, César Augusto Mara Valenzuela, Edwin Daniel Vivar Palma** y su sobrina **Seidi Natalia Vélez Falcón**, quienes habrían sido detenidos por agentes de policía en la ciudad de Guayaquil, provincia de Guayas, el 19 de noviembre de 2003, en relación con un robo en una farmacia en la ciudad de Guayaquil. Edwin Daniel Vivar Palma, Jhonny Elías Gómez Balda y César Augusto Mara Valenzuela se encontrarían en paradero desconocido desde entonces. Seidi Natalia Veléz Falcón se encontraría

detenida en la comisaría de Guayaquil. Se alega que no tendría acceso a su abogado. El 19 de noviembre de 2003, Jhonny Elías Gómez Balda y César Augusto Mara Valenzuela habrían llamado a distintos familiares desde el cuartel de la policía judicial en Guayaquil y les habrían comunicado temores por sus propias vidas. Ese mismo día, Edwin Daniel Vivar Palma habría llamado a su esposa desde su teléfono móvil y le habría confirmado que estaba preso y que le iban a quitar el celular. Por otra parte, el director de la policía judicial en la provincia de Guayas habría informado a un abogado de la oficina del Defensor del Pueblo que no existía constancia de que Jhonny Elías Gómez Balda y César Augusto Mara Valenzuela se encontraran detenidos en la mencionada jefatura de la policía judicial. Una petición de habeas corpus habría sido presentada a las autoridades competentes de Guayaquil.

Egypt

549. By letter dated 4 June 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following cases.

550. **Hussain Mohamed Mursi.** He was reportedly found dead in al Ramel police station in April 2001. It is alleged that he was arrested on 25 April 2001 by the Verdict Implementation Unit and kept in detention although the prosecution reportedly ordered his release. Other inmates reported that the alleged victim had taken some drugs and that his condition had become uncontrollable during his last hours. A forensics report is reported to have indicated a dislocated clavicle, fractured ribs, contusions and abrasions on his face, chest and limbs and injuries on his scalp, and showed that there were no signs of alcohol or toxic materials in his stomach, thus refuting allegations that the cause of death was drugs. His father is reported to have claimed that Hussain Mohamed Mursi was beaten and tortured to death.

551. **Nader Fath alsyed.** He was reportedly beaten and stabbed to death by a police assistant at the Nasr City police station, Cairo, on 29 April 2001. It is alleged that a forensics report described injuries on his face, forehead, neck, chest, shoulder and back and wounds and cuts on his left thigh. The report also allegedly suggested that the main cause of death was the stab wound on his thigh which led to severe blood circulation breakdown.

552. **Medhat Gaber Tadros.** He was reportedly arrested for robbery on 23 or 24 April 2001 by the intelligence division at Imbaba police station. It is alleged that he was beaten and subjected to electric shocks and other kinds of ill-treatment. Two police officers were reportedly referred to a criminal court on 12 May 2002 accused of torture.

553. **Ahmed Taha Hussein.** He was reportedly arrested at 4 p.m. on 29 October 2001 and taken to Qwesna police station. On the following day an officer of the Qwesna police station reportedly informed Ahmed Taha Hussein's family of his death. His relatives are believed to have not been allowed to attend his burial. The forensic report allegedly stated that his scalp showed signs of congestion, he had foam in his trachea, his heart was in good condition, there was an accumulation of dark urine in his bladder, and there were no traces of poison or drugs. The death, according to the report, was caused by a dormant illness difficult to determine by forensic medicine. It is also reported that the Attorney General filed the report in March 2002.

However, the victim's family and a local human rights organization submitted a complaint to the prosecutor general and the Minister of the Interior against the decision to file the report and the procedures taken by the police officers against the victim and his family.

554. By letter dated 9 July 2003, the Special Rapporteur advised the Government that he had received information on the following individual cases.

555. **Faisal Sami Fathi.** He was reportedly arrested on 23 August 2000, while attending a wedding where a quarrel had started. He and other participants were taken to Awsim police station, where Faisal Sami Fathi was reportedly forced to strip naked and another person was allegedly ordered to rape him. A complaint was allegedly filed with the Giza security division of the Ministry of the Interior on 30 August 2000. Another complaint was allegedly filed with the Attorney-General of Giza on the same day. It is believed that there has been no medical examination.

556. **Nabil Fayed and Duaa Nabil Fayed.** They were reportedly arrested at home on 22 January 2001 by members of the "6th of October" city police forces. At the police station, they were allegedly handcuffed, beaten with sticks, subjected to electric shocks, burned with cigarettes and threatened with sexual assault. After a complaint was allegedly filed, a prosecutor reportedly launched an investigation on the allegations of torture and summoned witnesses and two police officers for interrogation.

557. **Naser Muhammad Mahmud 'Ali.** He was reportedly taken to al-Munira al-Gharbiya police station in Giza on suspicion of burglary on 26 April 2001 at around 4 p.m. It is alleged that there he was beaten with sticks and suspended from a window. He is believed to have been released on 27 April at around 11.30 p.m. A local human rights organization reportedly lodged a complaint on his behalf with Giza Police Headquarters on 2 May 2001.

558. **Samah Hamid 'Ali al-Faris (f).** She was reportedly detained by police officers on 3 May 2001 and taken to Helwan police station, where she is believed to have been kept for one week and beaten.

559. **M. A.,** aged 17, and his elder brother, **Walid Muhammad 'Adel.** They were reportedly taken to Helwan police station on 25 May 2001, where they are believed to have been kept in a room known as the al-Tallaga (the fridge) room. It is reported that their hands were tied to a window, were beaten on the back with a whip and later made to lie down on the floor. Subsequently, their uncle, **'Atif Mahmud 'Agami,** a driver, was reportedly brought in a very poor state to the al-Tallaga room, where he was also tied to a window. It is thought that upon arrest he had been stripped naked and put into a police car, where he was allegedly beaten. At the police station he was reportedly subjected to *falaka*.

560. **Lamya Muhammad 'Abbas,** the wife of 'Atif Mahmud 'Agami, and other female members of the family were reportedly whipped and insulted by police officers. The women were allegedly ordered to take their clothes off, but refused. It is reported that they were then threatened that they would be hung up. One of them was allegedly forced to lie on the floor and beaten with a whip on the feet. Police officers

reportedly told Maha Mahmud 'Agami, 'Atif Mahmud 'Agami's sister, who was held separately and had to listen to her relatives being subjected to the above-reported treatment, that she could end their suffering simply by withdrawing a lawsuit she had filed in connection with a land dispute. The women were allegedly released at about 11 p.m. on 25 May 2001 and the men the following evening. The latter reportedly filed a complaint with the Office of the Prosecutor in Helwan. It is alleged that after 'Atif Mahmud 'Agami' reported the incident to Cairo Police Headquarters on 28 May 2001, he received follow-up calls from the authorities but no information about any investigations into his complaint.

561. **Magdi Hassan Idris Muhammad; Nasha'at Ahmad Muhammad; Muhammad Salih Mahmud Muhammad; Khalid Mahmoud Ahmad Fathi; Ahmad Mustafa 'Abd al-Magid; Hazim Muhammad 'Ali Ibrahim; Walid Saif 'Abd al-Rahman Muhammad; Hisham al-Sayid Muhammad Mitwali; Ahmad Hussein 'Abd al-'Aal; Wa'el Fikri Yusif Qinawi; Sabri Muhammad Mustafa Darwish; Aiman Sayid Ibrahim al-Mansi; Abu Siri Samir Ibrahim Muhammad; Ahmad al-Sayid Goma' 'aliwa; Muhi al-Sayid Shahhata; Hassan Mahmud 'ali al-Sayid; 'Abd al-Basit Zaki Ibrahim Muhammad; Mustafa 'Abd al-Khaliq Ahmad al-'Atar; 'Abd al-'Aziz 'Arabi 'Abd al-'Aziz Ahmad; 'Abd al-Rahman Muhammad Hamdan; Muhammad Hisham Saif al-Din; 'Omar 'Abd al-'Aziz Khalifa and 'Omar Hagayif Mahdi** were reportedly among scores of alleged members of the armed Islamist group Tanzim al-Wa'd (Organization of Promise) who were detained in May 2001. It is alleged that dozens of them were subjected to electric shocks while in incommunicado detention at the premises of the State Security Intelligence (SSI). On 3 December 2001, the trial of 94 men opened before the Supreme Military Court (case No. 24/2001) on charges of membership of an armed group. Many detainees, including the above-listed persons, reportedly testified before the public prosecutor that they had been tortured during their detention at the SSI. However, no investigations are known to have been undertaken into their allegations.

562. **Essam Mohamed Allam** and his brother, **R. M. A.**, a secondary school student. They were reportedly arrested on 8 June 2001 by security officers from the Imbaba police station. Both brothers were reportedly beaten and R. M. A. was slapped on the face and taken to the police station. Their sister and father, arriving at the police station, reportedly found them bleeding and with swollen faces, and were told that they had been beaten with sticks and kicked. They were reportedly transferred to the Office of the Prosecutor on the same day and were ordered released. It is reported that despite a forensics report which recorded injuries, no legal action had been taken. The two brothers and their relatives are said to have since been intimidated by the police, who have allegedly threatened them with detention.

563. **Hani 'Abd al-Mawgud Sa'id.** He was reportedly arrested, along with six other persons, on 7 September 2001, upon his arrival at a private party. They were allegedly taken to the Vice Squad Department in Giza, where he is believed to have been beaten, including with a whip, until he allegedly agreed to sign a confession, which had been previously prepared for him. It is alleged that he was transferred to al-Haram police station, where the beatings, in particular with a whip and a water pipe, reportedly continued every night for 22 days. On 26 December 2001, he was allegedly sentenced to six months' imprisonment for "habitual debauchery". He

reportedly raised allegations of torture with the public prosecutor. According to the information received, he requested a medical examination, but to no avail.

564. **Ahmad Ahmad ‘Abd al-Rihim ‘Azam.** He was reportedly summoned to the Giza Headquarters of the SSI in Gabr Ibn Hayan Street on 14 October 2001 in connection with a forged copy of the Qur’an. It is alleged that he was beaten and subjected to electric shocks while in custody. He was allegedly released on 16 October 2001. A local human rights organization is said to have filed a complaint at the Office of the Prosecutor in al-Doqqi on his behalf.

565. **Muhammad Mutwali Hussain** was reportedly detained on 20 October 2001 at Imbaba police station in Giza following an argument with a man in civilian clothes, who is believed to be a police officer. It is alleged that during his detention, he was beaten with a metal object and burned with a cigarette. He was reportedly released on 15 November 2001. A local human rights organization is said to have filed a complaint with a public prosecutor on his behalf on 20 November 2001.

566. **Muhib Samir Musa.** He was reportedly detained on 5 November 2001 at ‘Omriya police station, where he is believed to have been suspended from a wooden pole and subjected to electric shocks. He was reportedly released on 8 November 2001. A local human rights organization is said to have filed a complaint with a public prosecutor and other relevant authorities on his behalf on 28 November 2001.

567. **Abdul Wahab Ali Alsayed Essa.** He reportedly went to Awlad Saqer police station on 18 January 2002, after a quarrel with neighbours. It is alleged that once the dispute was settled, a major reprimanded him for not standing up in a steady position in his presence. He was reportedly handcuffed and flogged and later forced to kiss the major’s shoes. Abdul Wahab Ali Alsayed Essa was reportedly transferred to hospital suffering from head injuries and a fractured rib and was unable to stand. On 13 March 2002, he reportedly submitted a petition to the Attorney General and two months later, the major was summoned by a prosecutor for interrogation. The latter reportedly decided to release the major, but to pursue the inquiry.

568. **Mustafa Hilmi ‘Abd al-Samiya,** a mechanic, and his friend, **Sayid Khalifa ‘Isa.** They were reportedly arrested on 26 January 2002 and taken to the police station of the second precinct of Madinat Nasr. Police officers are said to have removed the two men from the police station when their condition deteriorated. It is reported that on 6 March 2002 Mustafa Hilmi ‘Abd al-Samiya was left on a street corner, where he was found and taken to Agouza General Hospital in Cairo. A forensics report reportedly found evidence of whipping and caning on his body. It is also alleged that Sayid Khalifa ‘Isa was left in the street and taken to a hospital in the Bassatin district of Cairo, where he died. On 8 August 2002 a Cairo criminal court sentenced two police officers to three years’ imprisonment for having tortured the two men. A forensics report is reported to have found signs of torture on the body of Sayid Khalifa ‘Isa, including marks on his penis due to electric shocks.

569. **Wa‘el Muhammad Tawfiq** and several activists of the Egyptian People’s Committee for Solidarity with the Palestinian Intifada were reportedly arrested on 22 January 2002 during the Cairo International Book Fair. Although most of them

were released on the same day, Wa'el Muhammad Tawfiq was reportedly held for two days, during which he is believed to have been subjected to electric shocks at the SSI headquarters at Lazoghly Square. On one occasion, he was reportedly blindfolded, stripped to his underwear and surrounded by four officers who punched and kicked him. He was then reportedly subjected to electric shocks on his right wrist. It is reported that on the following day, he was stripped to his underwear, a dirty sock was placed in his mouth and bottles of freezing cold water were poured over his head and body, severely restricting his breathing. A medical examination by a local non-governmental organization is said to have found signs on his body which were consistent with his allegations. Wa'el Muhammad Tawfiq is believed to have filed a complaint with the authorities.

570. **Umm Hashim Abu al-'Izz**, an actress. She was reportedly arrested on 8 February 2002 because her cab driver failed to produce all the required documents. It is alleged that she was taken together with the driver and another passenger to the Agouza police station in Cairo. According to the information received, when she protested against insults by a police officer, she was severely beaten with a belt on her face and other parts of her body. It is reported that as she lost consciousness, dirty water was poured on her, and that she was beaten again with the belt once she regained consciousness. She reportedly sustained bruises on her face. A local non-governmental organization is said to have filed a complaint on her behalf at the Office of the Prosecutor in Auguza.

571. **Gamal Saeed Gaber** and his friend. They were reportedly stopped by a police officer while they were walking in Shoubra district, Cairo, on 17 March 2002. It is reported that they were asked for their identification cards and subsequently assaulted. When they complained to a superior officer, a major, the latter reportedly insulted them and ordered them to be taken to El Sahel police station. However, on the way to the police station, he allegedly ordered them to get out of the car. The two men are reported to have subsequently gone to al Kaser El Aini hospital for treatment. Gamal Saeed Gaber was admitted to the ophthalmology department. It is reported that a complaint was filed with the Office of the Prosecutor of Shobra on 19 March 2002 and that the following day, the North Cairo prosecutor interrogated the alleged victims. The two police officers involved were reportedly also questioned. It is thought that while the major was subsequently released, the police officer was arrested pending investigation.

572. **Mohamed Ibrahim Hussain al Gendi**. He was reportedly arrested on 31 March 2002 and held at al Mansora police station, al Daqahlya, until 4 April 2002, when he was referred for prosecution. It is alleged that during this period he was beaten and burned with cigarettes. These allegations were reportedly transmitted by the victim to a prosecutor, who is believed to have referred him to the Ministry of Health for a medical report. A medical report dated 8 April 2002 is thought to have confirmed the allegations.

573. **Maajid Nawaz, Ian Malcolm Nisbett, Reza Pankhurst and Hassan Rizfi**, British citizens. They were reportedly detained on 1 April 2002 on suspicion of affiliation with the Hizb ut-Tahrir al-Islami (Islamic Liberation Party). The four are believed to have been subjected to ill-treatment, and one of them is reported to have been given electric shocks while in incommunicado detention. For five days, their

whereabouts remained unknown until one detainee was allowed to make a phone call to his wife. On 11 April 2002, representatives of the British Embassy in Cairo were allowed to visit them at Mazraat Tora prison. They were reportedly referred for forensic medical examination two-and-a-half months later. By mid-October their request for an independent medical examination had reportedly still not been granted.

574. By letter dated 21 July 2003, sent jointly with the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur advised the Government that he had received further information regarding those reportedly arrested on 12 April 2003 in Cairo in relation with their participation in anti-war demonstrations (see also joint urgent appeals sent on 18 February, 9 April, 22 April, and 24 April 2003 with the Special Rapporteur on the promotion and protection of the right of freedom of opinion and expression as well as the Chairperson-Rapporteur on the Working Group on Arbitrary Detention in relation to alleged arrests and incommunicado detention of anti-war demonstrators). Concerning **Mahmud Hassan Hassan, Ramiz Gihad, Ibrahim al-Sahari, Wa'el Tawfiq**, and two other students, **Amr Abd al-Atif** and **Walid Fuad**—who were arrested in similar circumstances on 12 April and released on 15 April 2003, it is alleged that all these men were held at SSI where they are believed to have been beaten during interrogation sessions. It is said that some of them were subsequently transferred to Bourg El-Arab prison, Alexandria, where they are believed to be incommunicado under the Emergency Law. The Cairo-based Nadeem Center for the Treatment and Rehabilitation of Victims of Violence is said to have observed testicular congestion, contusions and bruises on the back muscles and the muscles on the front of the left thigh of one of the released students. Ramiz Gihad is believed to have been given electric shocks and beaten and to have been deprived of water. It is alleged that other detainees saw burn marks and bruises on his hands, elbows, feet and toes. Another pacifist and member of the Popular Committee in Support of the Palestinian Intifada, **Ashraf Ibrahim**, has reportedly been missing since 19 April 2003. It is thought that he may be detained in Mazra Tora prison. He had already allegedly been detained without charge and beaten in February 2003. Their lawyers and family have reportedly not been granted access to them and it is believed that they continue to be detained at the SSI headquarters.

575. By letter dated 1 October 2003, the Special Rapporteur advised the Government that he had received information on the following cases. The Government responded to some of them by letter dated 17 November 2003.

576. A number of **residents of al-Duweiqqa**, Cairo, including a 70-year-old man, were reportedly beaten by the police on 21 March 2001, when the latter allegedly evicted them and demolished their houses, in accordance with an order issued by the municipality on the grounds that the houses had been recently built on State-owned land. It is reported that individuals who were beaten did not any receive medical care for their injuries and that they were left to live among the ruins of their demolished houses in an area said to have many scorpions and snakes. Residents of al-Duweiqqa are also believed to have been beaten and threatened when they went to complain at the office of the Minister of Housing.

577. The Government reported that Decree No. 18066, concerning the Manshah Nasser area in the governorate of Cairo, had ordered the evacuation and demolition of 25 properties standing on recreational land in al-Duweiqqa because they were illegally

occupying land belonging to the State. The administrative authorities arranged alternative accommodation for the occupants of these properties in Badr City in Cairo and resettled them before proceeding with the demolition operations. On 7 February 2001 the administrative authorities in the governorate executed the demolition order, accompanied by members of the police (to guarantee safety). The operation proceeded smoothly and without any breaches of security. There is no evidence to support the allegations that a number of residents of the district of al-Duweiqā were assaulted by the police.

578. A number of **residents of Port Said** living in allegedly vacant and structurally unsound buildings in the areas of Masakin Nasir and al-Salaam were reportedly beaten in September 2001, when the police allegedly evicted them by force. According to the information received, the evicted residents were subjected to humiliating treatment and transported in garbage collection trucks to a remote waste disposal site known as Zirzara. It is also alleged that 40 women were beaten after they marched to the Governorate Building to transmit their complaints.

579. The Government reported that in 2001, the Governorate of Port Said, in coordination with the Ministry of Housing, issued an order for the demolition of 4,760 residential units (on the verge of collapse) in the areas of Salaam and Nasser that constituted a danger to the lives of the people occupying them. The order also provided for renovations to be done to a further 980 units, which were to be evacuated on a gradual basis, depending on how perilous the state of each property was. Five women were arrested and the details of the incident were recorded in al-Minakh police administrative report No. 3668. After the women had been brought before the Department of Public Prosecutions, they were released on bail. There is no evidence to support the allegation that the residents of the two areas or the women were beaten by the police before being transported in garbage trucks.

580. **Marghany Abdel-Badie Ammar**, a resident of Khaddariya, Sharqiya Governorate, was reportedly beaten by the police and had his teeth broken on 5 November 2001. He and his son were allegedly later kept in custody for 12 hours. This incident is said to have taken place when police forces of the Sharqiya Security Directorate, Central Security Forces and Special Forces allegedly proceeded to demolish 76 houses at Khaddariya village on the grounds of "agricultural-land-use violations". It is alleged that many residents were subjected to insults, humiliating treatment and physical assaults. Gamal Muhammad Sayid Ahmad was reportedly at his home when public forces proceeded to demolish it, allegedly knowing that the residents were still inside. It is alleged that many residents were in need of medical care after their houses had been destroyed, but did not receive any assistance. In particular, Watif al-Sayid Mutawally (f), who suffered from high blood pressure, reportedly had an attack.

581. The Government reported that in 2001 the Department of Agriculture at Ibrahimiyah Centre in the Governorate of Sharqiyah issued 76 demolition orders for houses illegally built on arable land located in Khaddariya village (not Qadariyah village). On 25 September 2001, the administrative authorities proceeded with the execution of the demolition orders, accompanied by the police (to guarantee safety). After the demolition orders had been executed, **Marghany Abdel-Badie Ammar** (Merghany Abdel-Badie Tawfiq Ammarah), **Muhammad Sayid Ahmad** (Gamal

Muhammad Sayid Ahmad) and **Watif al-Sayid Mutawally** (Atif Mustapha Ali al-Sayid) sent telegrams to a number of State officials complaining that their houses had been demolished even though the courts had ruled that the demolition orders did not apply to their homes. On 27 November 2001, these same persons were summoned to the Kafr Najam police office at al-Sharqiyah Security Directorate for questioning about their complaints (they were subsequently released). Their complaints were registered as al-Sharqiyah Security Directorate complaint No. 59 and were passed on to the Department of Public Prosecutions for the institution of the requisite legal procedures. The competent authorities (municipal councils and court bailiffs) were responsible for the operations that were carried out. There is no evidence to support the allegation in the complaint that Merghany Abdel-Badie Tawfiq and his son Said were unlawfully detained at the al-Sharqiyah Security Directorate.

582. By letter dated 2 October 2003, sent jointly with the Special Rapporteur on adequate housing, the Special Rapporteur advised the Government that he had received information concerning several residents of **Mit Serag village, al-Mahalla**, Governorate of al-Gharbeya. They were reportedly injured during a clash with the police on 3 June 2003. In particular, it is reported that **Ramadan Abu Hasya** was injured on the head and had to receive treatment in a hospital for five days and that **Laila**, the wife of Seyyed Yousef Rezzq, was kicked in the stomach by a police officer. Approximately 400 police officers reportedly stormed the village with two bulldozers and razed 14 houses on the grounds that they had been built on agricultural land, although a court decision had allegedly withdrawn these charges. Residents allegedly attempted to prevent the destruction of their houses. In response, the police reportedly threw 96 tear gas bombs and clubbed many of the protestors, including women, and arrested 21 persons, 12 of whom are believed to have been detained for 15 days on charges of demonstrating, resisting authorities and sabotaging public property.

583. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002 for which no responses had been received.

Urgent appeals

584. On 18 February 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention regarding the following demonstrators against the war in Iraq: **Karim Ahmed Mohamed Omr** (detained in El Darb El Ahmar police station before being released), **Tamer Hendawi Abd El Hafeez, Mohamed Khalil Ghatas, Mohamed Dakhli, Abdel Gawaad Ahmed Mostafa, Rami Safwat, Mahmed Hassan Hassan Ahmed, Mahmed Abd El Samee** (detained in El Darb El Ahmar police station before being released), **Mostafa Aid Ramadan** (detained in El Sayeda Zenab police station before being released), **Mohamd Abd El Razek Mohamed** (detained in El Darb al Ahmar police station before being released), **Magdy El Kordi, Mohamed Hosni Mahmoud**, a Palestinian, **Samir El Fouli** and **Sabri El Samak**. Several of those named were reportedly arrested by the State Security Investigations Office on 18 January 2003 in El Sayeda Zenab district, Cairo. Following their arrest, they were allegedly referred to the State Security Prosecution which decided to detain them pending investigation, on charges of disrupting the public order and peace. It is believed that several of them

remain under pre-trial detention in Tora prison. Most recently, during the early morning of 9 February, officials from the State Security Investigations Office are said to have arrested Ibrahim El Sahary, a journalist at *Akhbar el Alam (World News)* and an anti-war activist. According to the information received, he was held in the office of State Security Investigations in Gaber Ibn Hayan in Giza, Cairo, before being transferred to Mazraat Tora prison. Fears were expressed that some of those still in detention may be held incommunicado and thus may be at risk of ill-treatment.

585. By letter dated 11 March 2003, the Government reported that the persons detained during the demonstrations against the war in Iraq had been released after interrogation.

586. On 24 February 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning **Kamal Khalil**, Director of the Center for Socialist Studies in Cairo and campaigner against the war in Iraq. He has reportedly not been seen since he left his home in Giza on the morning of 19 February 2003. It is believed that he is currently held in incommunicado detention by State Security Intelligence forces. He has reportedly been denied contact with his family and lawyer. He is alleged to have recently undergone surgery for a hernia and to suffer from asthma. However, it is reported that his relatives have not been allowed to bring him the required medicine. In view of the incommunicado nature of his detention, fears were expressed that he may be at risk of torture or other ill-treatment. Fears have also been expressed for his physical integrity if he does not receive adequate medical attention.

587. By letter dated 13 March 2003, the Government reported that Egyptian security agents arrested Kamal Khalil for having committed acts breaching security and order. He was released after questioning.

588. On 19 March 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning **Haitham Sa'ad Ibrahim**, an engineering student at Mansoura University in northern Egypt. He was allegedly detained in the early hours of 13 March at his home by SSI officers. He is believed to be held incommunicado at the SSI office in Mansoura and concerns have been expressed that he may be at risk of torture or ill-treatment.

589. By letter dated 9 April 2003 the Government replied that Mr. Ibrahim had not been arrested in the context of anti-war demonstrations and that it had not been established that he was detained by the State Security Intelligence in Mansoura.

590. On 28 March 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning **Mohamed Farid Hassanein**, member of Parliament. He was reportedly arrested on 23 March from hospital where he was receiving treatment for a brain concussion, eye injuries (in particular a detached retina in the right eye), cuts on the head, face and nose, as well as multiple injuries on both arms and legs, injuries sustained in an assault the previous day. Security investigators allegedly interrogated him at the hospital at 2 a.m. on 23 March for two hours, despite his serious condition. Fears were expressed over the health condition of Mohamed Farid Hassanein.

591. On 9 April 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on violence against women and the Special Rapporteur on the independence of judges and lawyers concerning the recent arrest and detentions of hundreds of anti-war demonstrators who attended anti-war rallies held across Cairo between 20 and 25 March 2003. It is reported that the total number and location of the detainees, many of whom are being held incommunicado, remain unknown. Among those reported to be detained are activist **Manal Ahma Mustafa Khalid** and lawyer **Ziad Abdel Hamid al-Uleimi**, who were allegedly beaten severely upon arrest and again in the al-Khalifa police station and were denied specialist medical attention. Manal Ahma Mustafa Khalid and **Nivin Ahmad Samir**, and a 16-year-old, were reportedly beaten at al Khalifa police station by two male police officers and threatened with rape. In addition, it is reported that two other lawyers, **Gamal Abd al-Aziz** and **Yassir Farrag**, were detained while the police occupied the premises of the Egyptian Bar Council. Four members of Parliament, **Mohammed Farid Hassanein**, **Hammdeen Sabahi**, **Abdel Azim al-Maghrabi** and **Haidar Baghdadi**, were allegedly beaten and detained. A number of students, **Marwa Faruq**, **Samir Fuli**, **Mahmud 'Izzat**, **Shaymaa Samir** and **Nourhan Thabet**, were reportedly detained and tortured with electric shocks at the Giza State Security Intelligence Branch at Gaber Ibn Hayyan. Nourhan Thabet, who was pregnant, was reportedly beaten by the police and bound, and her current location is unknown. While many of the hundreds of people initially detained have been released, it is reported that at least 68 people have been issued with detention orders for between 4 and 15 days and have reportedly been tortured (electric shocks and beatings) or subjected to ill-treatment in police custody, including gender-based violence (i.e. threatened with rape), or have been subjected to the use of excessive force upon detention by security forces. At least seven detainees have been transferred to the State Security Prosecution Office where due process will allegedly be limited during the trial procedure and the right to appeal will be denied. Under these exceptional procedures, it is reported that there is no ordinary appeal and a conviction can only be overturned by an order of the President of the Republic in his capacity as Military Governor under Egypt's emergency laws.

592. By letter dated 22 April 2003 the Government reported that it was untrue that thousands of citizens were prevented from demonstrating against the war in Iraq and from exercising their rights to freedom of opinion and expression. The only persons arrested were those who breached public security and public order during the demonstrations by, for example, destroying public and private property. Those persons were questioned by the Department of Public Prosecutions, which released them once its investigations had been completed. There is no evidence to support the allegations that any of the persons arrested were subjected to torture during the investigations. No one is currently being held in detention because of the demonstrations against the war in Iraq.

593. On 22 April 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention regarding **Mahmud Hassan Hassan**, who was reportedly detained at an anti-war demonstration in front of the Egyptian Journalists' Union on 12 April 2003. Another person, **Ramiz Gihad**, was reportedly detained on the same day. Both are believed to be held incommunicado at the State Security Intelligence headquarters at Lazoghly Square.

They were both reportedly severely beaten. Ramiz Gihad was reportedly subjected to electric shocks. **Ibrahim al-Sahari**, a journalist and anti-war activist, was reportedly detained on 13 April 2003 at his home in Cairo by security officers. He was reportedly taken to the SSI headquarters, where he was allegedly beaten. In February, Ibrahim al-Sahari was previously detained at SSI headquarters, during which time he was reportedly ill-treated. It is further reported that the anti-war activist **Wa'el Tawfiq** was detained in Cairo on 13 April 2003. He is also reportedly held at SSI headquarters, where he was allegedly beaten. He was previously detained in January 2002 during the Cairo International Book Fair. He was taken to SSI headquarters, where he was allegedly tortured. According to information received, a medical examinations conducted by experts from the Cairo-based Nadim Centre for the Management and Rehabilitation of Victims of Violence found evidence consistent with his allegations of torture. In view of the incommunicado nature of their detention, fears have been expressed that the above-mentioned persons might be at risk of torture or other forms of ill-treatment. These concerns were already expressed in 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, the Special Rapporteur on violence against women and the Special Rapporteur on the independence of judges and lawyers on 9 April 2003.

594. On 24 April 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention regarding **Marwan Hamdi**, an anti-war activist who was detained on 15 April 2003 in Cairo. His exact whereabouts are reportedly unknown and fears were expressed that he may be held incommunicado at SSI premises and therefore might be at risk of torture and other forms of ill-treatment.

595. On 8 July 2003, the Special Rapporteur sent an urgent appeal concerning **Mahmoud Abdel Hamid Shokry**, aged 83, and **Mahmoud Abdel Hadi**, aged 48, who are reported to be currently held in pre-trial detention and whose health is said to be deteriorating. Fears were expressed for their physical and mental integrity if they do not receive prompt and appropriate medical assistance. It is reported that Mahmoud Abdel Hamid Shokry was arrested on 22 April 2003 and taken to Mazraet Tora prison. He has allegedly been interrogated by members of the State Security Prosecution. While in custody, his health has reportedly seriously deteriorated and as a result, he is alleged to be unable to walk. It is reported that he had to be transported by ambulance and to be carried by police officers during the investigation. Mahmoud Abdel Hadi was reportedly arrested on 20 June 2003 in Talhka, Governate of Dakahlia. He is alleged to suffer from several heart-related illnesses.

596. On 12 August 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders concerning **Ashraf Ibrahim**, an active member of the anti-war movement in Egypt, Secretary of the Egyptian Association on Health and Environmental Development and member of the the Popular Committee for Solidarity with the Palestinian Uprising. He is reportedly held in incommunicado detention in Mahkum Tora prison, near Cairo. It is believed Ashraf Ibrahim was detained on 19 April 2003 when he reported to the SSI. It is reported that Ashraf Ibrahim has been on hunger strike since

30 July to protest against his continued detention without charge or trial. As a result, his health is said to have been deteriorating seriously and it is believed that he has been denied adequate medical treatment. According to the information received, around 7 August, a prison doctor reportedly told Ashraf Ibrahim that he should be transferred to hospital. Serious fears were expressed concerning the continuing detention in solitary confinement of Ashraf Ibrahim and concerning his health if he does not receive appropriate and prompt medical treatment.

597. By letter dated 30 September the Government reported that **Ashraf Ibrahim Marzuq** was arrested in Higher State Security Case No. 809/2003 and was questioned by the Department of Public Prosecutions in the presence of both his lawyers. He was not subjected to any form of ill-treatment, but rather was well treated and was placed under full medical supervision during his hunger strike. During the investigations, neither he nor his lawyers claimed that he had been tortured or ill-treated. On 9 August 2003, the Higher State Security Prosecution Department decided to refer the case to the competent court in order to set a date for trial, after charging Mr. Marzuq with founding an illegal organization in contravention of the terms of the Constitution and of disseminating abroad false propaganda likely to harm the prestige of the State. Mr. Marzuq was convinced to end his hunger strike on 9 August 2003.

Follow-up to previously transmitted communications

598. By letter dated 14 April 2003, the Government provided information concerning a letter sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions on 2 September 2002.

599. Concerning **Ahmed Taha Mohamed Yousef** (E/CN.4/2003/68/Add.1, para. 439) (Ahmad Taha Mohammed Yusuf Ali), he was arrested on 23 February 2002 and taken to El-Wayli police station so that legal action could be taken against him with respect to a number of crimes. While he was at the station, he became very ill and was immediately transferred to the hospital for treatment, but he died there. The details of the incident are contained in El-Wayli misdemeanours report No. 1217. The Department of Public Prosecutions opened an investigation into the incident after the family of the deceased had accused three members of the force of having beaten Mr. Mohammed and caused his death. The Department of Public Prosecutions charged the individuals concerned with unlawful detention and beating resulting in manslaughter. They were put on trial and sentenced to five years in prison at hard labour, and are currently serving their sentences.

600. Concerning **Mohamed Samir Aboul Wafa** (ibid., para. 441) (Mohammed Samir Abu al-Wifa), he was arrested in 2001. On 12 January 2001 certain formalities relating to his release were in process at al-Qubba Park police station when he began to complain of shortness of breath in his cell and he died. This was confirmed by some of his fellow prisoners in the same cell. The details of the incident are set forth in administrative report No. 399/2001. The Department of Public Prosecutions undertook an investigation after the family of the deceased accused the head of the investigation unit at the station of having beaten him and caused his death. The Department of Public Prosecutions ruled out foul play on the basis of the medical report and discontinued the case. There was no evidence that he was beaten or tortured as alleged in the complaint.

601. Concerning **Ahmed Hassan Ahmed** (ibid., para. 444) (Ahmad Hasan Ahmad), he was arrested on 28 February 2000 and remanded in custody pending further investigations. On 2 March 2000 his fellow inmates reported that he had been taken seriously ill and had gone into a coma. He was transferred to hospital for emergency treatment but he died there. The medical report showed that the death had been caused by swallowing a certain kind of insecticide. It added that there were no signs of beating or torture on the body. The Department of Public Prosecutions decided to file the case as a suicide. There was no evidence that this person had been beaten or tortured at the State Security Intelligence Headquarters at Qalyubiya, as the complaint alleges.

602. By letter dated 22 April 2003, the Government provided information, concerning **Said Qenawy Selim** (ibid., para. 440) (Sayid Qanawi Salim Ali). On 7 March 2000, this person was arrested for robbery by officers of the Imbaba precinct on 7 March 2000. While the accused person was being arrested, he showed signs of being unwell and was taken by an officer to Imbaba Central Hospital for emergency treatment. He died of severe circulatory failure just as he arrived at the hospital. The Department of Public Prosecutions launched an investigation into his death. The investigation was registered as Imbaba precinct misdemeanours report No. 13669/2000. The Department of Public Prosecutions questioned the witnesses to the incident, who testified that the investigating officers and a number of police constables had beaten the deceased on many parts of the body and that this is what had led to his death. The officers who had arrested the deceased said that the accused person was already unwell when they went to arrest him, and that he had died immediately upon arrival at Imbaba Central Hospital. The forensic medical report stated that there were several injuries on the body of the deceased and described them as the cause of death. This was consistent with the findings of the report contained in a memorandum by the Department of Public Prosecutions. The investigation is continuing. The investigating officers and police constables are due to be re-interviewed and they will be charged as appropriate.

603. By a letter dated 14 April 2003, the Government provided information concerning a letter sent on 2 September 2002 by the Special Rapporteur.

604. Concerning **Mahmoud Abdel Hafiz Mostafa** (ibid., para. 450) (Mohammed Abd al-Hafiz Mustapha), there is no information about this person and further details are requested from the Special Rapporteur.

605. Concerning **Ramadan Mostafa Mohamed** (ibid., para. 451) (Ramadan Mustapha Mohammed), he submitted a complaint on 8 March 2000 to the Department of Public Prosecutions, accusing an investigating officer at al-Matriya police station of having beaten and injured him in order to force him to confess to a robbery. When he was examined by a health inspector, the inspector noted that Mr. Mohamed had a number of superficial wounds. Mr. Mohamed was referred back to a forensic doctor, who noticed that the injury marks had changed and said that they could have been caused in the way that Mr. Mohamed had alleged. The Department of Public Prosecutions charged the officer concerned with using excessive force and referred him for disciplinary action to the body responsible for overseeing his work. He was brought before the police officers' disciplinary council of first instance. The officer, for his part, filed a misdemeanours action against the plaintiff, accusing him of

making a malicious complaint. In the presence of the opposing parties at the session on 17 February 2003, the court found in favour of the officer and sentenced Ramadan Mustapha Mohammed to one year in prison at hard labour and a fine of 100 Egyptian pounds. Mr. Mohammed appealed the verdict and a hearing was scheduled for 30 April 2003. There is no evidence to support the claim that Mr. Mohammed was beaten and tortured.

606. Concerning **Saber Sayed ali Agami** (ibid., para. 452) (Sabir Sayid Ali Ajmi), there is no information about this person and further details are requested from the Special Rapporteur.

607. Concerning **Hamza Radi El-Sayed** (ibid., para. 454) (Hamza Radi al-Sayyid), there is no evidence to support the allegation that he was beaten at Sharaiyya police station.

608. By letter dated 8 April 2003 the Government provided information concerning the following case referred to in the letter of 2 September 2002 of the Special Rapporteur.

609. Concerning **Abdel Hamid Ramadan Abdel Hamid Zahran** (ibid., para. 443) (Ahmad Hamid Ramadan Abd al-Hamid Zahran), also known as Khalid Zahran, he was taken into custody on 9 April 2000 at the Qalyub police station to serve a one month prison sentence handed down against him. On 11 March 2000, he became ill after taking some tablets. He was immediately taken to Qalyub General Hospital for treatment but he died there. There was no evidence that he had been subjected to beating or torture or that he had been detained by State Security Intelligence as the complaint alleged.

610. By letter dated [...] the Government responded to the following cases contained in the 2 September 2002 letter of the Special Rapporteur:

611. Concerning **Saif al-Islam Mohammad Raswan** (ibid., para. 448) (Sayf al-Islam Mohammed Rashwan), he was arrested on 7 May 2001. Mr. Rashwan appeared before the Department of Public Prosecutions and was charged in Higher State Security Case No. 2002/760. He was then released. There is no evidence that he was tortured while in detention.

612. Concerning **Farid Zahran** (ibid., para. 455) (Mohamed Farid Sa'ad al-Zahran), he was arrested on 20 September 2001 under the terms of a warrant issued by the Department of Higher State Security and remanded in custody for 15 days pending investigation (the case was recorded as Higher State Security Case No. 947/2001, possession of subversive publications). He was released on bail on 4 October 2002. Mr. Zahran did not file any complaints about his health while in prison nor was there any evidence to support his allegations that he was not given appropriate medical treatment for his condition. There was no evidence to support the allegations that he was subjected to ill-treatment or torture while in detention, since the treatment afforded to all prisoners is in conformity with prison regulations and guidelines, which in turn comply with the provisions of international covenants and treaties. His wife and son were given permission to visit him (under the terms of a

licence issued by the Office of the Public Prosecutor) and no complaints were received in this regard.

613. By letter dated 8 April 2003 the Government provided information concerning the following cases referred to in the letter of 2 September 2002 of the Special Rapporteur:

614. Concerning **Mahmoud Abd El Fatah**, (ibid., para. 447) (Mahmoud Abdel Fattah), he was arrested on 10 May 2001 under the terms of a warrant issued by the Higher State Security Prosecutor's Office in connection with Higher State Security Case No. 2001/566. There was no evidence that he was beaten or tortured as the complaint alleges.

615. Concerning **Ali Sayed Abou Serei Sayed** (ibid., para. 453) (El Sayed Abou Seri), he was summoned on 6 February 2000, together with others to al-Wasta police station (Bani Swaif) for questioning in connection with al-Wasta police station administrative complaint No. 2000/802. On 13 February, Mr. Sayid lodged Bani Swaif police station Complaint No. 101/5, accusing an officer from the al-Wasta police station of having beaten him. There is no evidence to support the aforementioned allegation, nor is there any evidence to support the claim that Mr. Sayid had been detained at the State Security Intelligence headquarters.

616. Concerning **Nacibov Khabib Gasimagmetovich, Magomededov Akhmed Abdullaevich and Magomedov Nazim Magomedbekovich, Nasibouf Gasima Giemivich** (ibid., para. 449) (Ghaza Mohammed Nasibouf, Ahmad Abdallah Majdouf and Nazim Mohammed Bak Zakariya Mahmuduf), they were arrested and charged in Military Crimes Case No. 2001/24, with respect to involvement in a terrorist organization, known as *al-Wa'd* (the Promise). Mr. Nasibouf was exonerated by the court, while Mr. Majdouf was sentenced to five years in prison at hard labour. As for Mr. Mahmuduf, he was not included in the arraignment order pertaining to the case and has since been deported from the country. There is no evidence to support the claim made in the complaint that the above-mentioned persons were beaten and tortured during their interrogations.

617. By letter dated 22 April 2003, the Government responded to the Special Rapporteur's letter dated 2 September 2002:

618. Concerning **Ahmad Mohammed Salah** (ibid., para. 446), he was arrested by the Qasr al-Nil precinct for committing indecent acts via the Internet. He was handed over to the Department of Public Prosecutions for questioning. During the investigation by the Department of Public Prosecutions, no signs of injury were noticed on Mr. Salah's body. At a court hearing held on 8 June 2002, Mr. Salah was sentenced to three years in prison at hard labour. He appealed against the verdict, and on 26 June 2002 the Court of Appeal found him not guilty of the charges.

619. By letter dated 12 November 2003 the Government responded to the following cases referred to in the Special Rapporteur's letter dated 16 September 2002.

620. Concerning **Sabah Abdel Hamid Ahmed** (f) (ibid., para. 457), she filed a complaint with the Department of Public Prosecutions alleging that on 16 January 2001 she had been summoned for questioning by the chief investigator of al-Waily police station about her links with a certain person. When she denied any knowledge of that person, she was beaten by the chief investigator and a number of other investigating officers using an instrument that inflicted several wounds. She was held at the police station for three days before being released on 19 January 2001. The Department of Public Prosecutions opened an inquiry registered as al-Waily crime case No. 696/2001, and questioned the complainant who repeated the allegations in her complaint. She was then referred to a forensic doctor, who confirmed in his report that the victim's injuries were consistent with the version of events and the dates given in the complaint. The Department of Public Prosecutions questioned the witnesses to the incident, who corroborated the story, and it questioned the accused persons about the allegations, which they denied. The Department of Public Prosecutions finally decided to bring criminal proceedings against the chief investigator and the other investigating officers involved on a charge of unlawful detention and torture of the victim. At its session on 20 November 2002, the Cairo Criminal Court sentenced the chief investigator to five years in prison and ordered him to pay the victim a provisional amount of compensation of 10,000 Egyptian pounds. He filed an appeal with the Court of Cassation which has yet to be adjudicated.

621. Concerning **Rania Fathi Abd al-Rahman** (f) (ibid., para. 458), she submitted a complaint to the prosecutor's office responsible for the police station of Shubra al-Khaima's first precinct. The complaint was registered as Shubra al-Khaima first precinct administrative case No. 6294/2001. The complaint alleged that she and other members of her family had been beaten and harshly treated by officers from the police station. The Department of Public Prosecutions opened an investigation and questioned the victim, who confirmed the details of her complaint. It also questioned the officers concerned, who denied any part in the incident. When the complainant was questioned a second time, she stated that she did not wish to be examined by the forensic doctor and that she had made her peace with the accused persons.

Observations

622. The Special Rapporteur notes with concern that the Government has not extended to him an invitation to visit Egypt. He would like to recall that he has made repeated requests for a mission.

Equatorial Guinea

623. Por carta de fecha 4 de junio de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones sumarias, extrajudiciales o arbitrarias, notificó al Gobierno que había recibido información según la cual **Juan Asumu Sima**, de 80 años, habría fallecido el 31 de agosto de 2002 en la cárcel de Black Beach, Malabo, presuntamente como consecuencia de los malos tratos a los que habría sido sometido mientras estaba en detención en espera de juicio. Habría sido arrestado en Bata o Mongomo entre mitad de marzo y mitad de abril de 2002. Durante el juicio, habría presentado numerosas lesiones y habría necesitado la ayuda de otros imputados para mantenerse de pie. La asistencia médica que habría solicitado durante el juicio le habría sido denegada. En la cárcel de Black Beach, Juan Asumu Sima habría sido

mantenido en condiciones de hacinamiento e insalubridad, en las que, al igual que los otros detenidos, habría tenido un acceso muy limitado a la comida y el agua y no habría recibido medicación para las heridas causadas por anteriores malos tratos.

624. Por carta de fecha 8 de octubre de 2003, el Relator Especial recordó al Gobierno varios casos inicialmente transmitidos en 1998, 1999 y 2002 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

625. El 12 de junio de 2003, el Relator Especial envió un llamamiento urgente sobre la situación de **Felipe Ondo Obiang**, uno de los líderes de la Fuerza Demócrata Republicana, cuyo caso fue transmitido por el Relator Especial sobre la cuestión de la tortura por carta de fecha 25 de septiembre de 2002 (E/CN.4/2003/68/Add.1, párr. 480) y a través de un llamamiento urgente enviado juntamente con el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria y el Representante Especial de la Comisión de Derechos Humanos encargado de examinar la situación de los derechos humanos en Guinea Ecuatorial el 15 de marzo de 2002 (ibíd., párr. 494). Dos agentes de seguridad no identificados se lo habrían llevado de su celda de la cárcel de Black Beach, Malabo, Isla de Bioko, el 9 de junio de 2003. La policía habría negado conocer su nuevo paradero. Se expresaron temores ante el hecho de que podría carecer de alimentación, puesto que ésta le sería normalmente proporcionada por sus familiares.

626. El 20 de agosto de 2003, el Relator Especial envió otro llamamiento urgente sobre la situación de **Felipe Ondo Obiang**, quien estaría sometido a régimen de aislamiento por motivos que no le habrían sido notificados. Su salud física y mental se habría deteriorado. Su pierna izquierda estaría encadenada a una pared de su celda, y consecuentemente ésta se habría hinchado considerablemente causándole dolor. Las autoridades penitenciarias habrían denegado su petición para que le encadenen las manos en lugar de la pierna, a fin de aliviar el dolor que sufriría en ésta. La pierna derecha también le causaría dolor como resultado de una fractura que habría sufrido tras ser supuestamente sometido a actos de tortura o malos tratos mientras estaba en prisión preventiva. También sufriría de frecuentes dolores de cabeza agudos y dolor de oídos y tendría problemas auditivos y ataques de depresión. No habría recibido ningún tratamiento para dichas dolencias.

627. El 31 de octubre de 2003, el Relator Especial envió un llamamiento urgente juntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria sobre la situación de **Bienvenido Samba Momesori**, un pastor protestante, quien habría sido arrestado por miembros de las fuerzas de seguridad vestidos de civil el 26 de octubre de 2003 en Malabo. No habría sido visto desde entonces.

Observaciones

628. Por carta con fecha 22 de octubre 2003, el Relator Especial expresó su interés en visitar Guinea Ecuatorial y solicitó al Gobierno una invitación para ello. El Relator Especial lamenta no haber recibido ninguna respuesta a dicha comunicación.

Eritrea

629. By letter dated 21 July 2003, sent jointly with the Special Rapporteur on the right to freedom of opinion and express, the Special Rapporteur advised the Government that he had received information concerning **about 400 students** who were reportedly arrested by the police on 11 August 2001. They were demonstrating outside the High Court, where a habeas corpus application on behalf of **Semere Kesete** was under consideration. The latter had reportedly made a speech on 31 July 2001 at the graduation ceremony of the University of Asmara criticizing the Government. Those arrested on 11 August were reportedly detained for about 30 hours in Asmara stadium in the open air and under the rain. The security forces allegedly turned water hoses on parents who gathered to protest against their detention and against being denied access to them. According to the information received, the students were subsequently transferred at gunpoint to Wia army camp near Massawa, where many were reportedly severely beaten for continuing to protest against their detention. It is reported that they were made to work at the makeshift camp, alongside with more than 3,000 other students who had opted for the vacation work program. It is also alleged that, as a punishment, these 400 students were given no food for the first three days, only water and sugar, and then only milk in the following week. Throughout their stay at Wia camp and later at the nearby Galaalo camp, they reportedly had to work in harsh conditions and extreme heat, building roads and moving heavy stones. Two of the students allegedly died from heatstroke. The Special Rapporteurs were informed that the Government indicated that it regretted the deaths, but no investigation was known to have been carried out. Most of the students are said to have been held for about three months, with no family visits allowed. At that time, Semere Kesete reportedly continued to be detained incommunicado in an undisclosed prison, reportedly without charge or trial. It is reported that he was held in a maximum security unit of the 6th Police Station in Asmara. For the first two weeks of his imprisonment, his hands were allegedly chained behind his back. He is believed to have been held for most of the time in a small dark cell in solitary confinement. After some months, he was allegedly allowed to sit outside in the open air for short periods. He was believed to have eventually fled to Ethiopia in August 2002, after his release.

630. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999, 2000 and 2001 for which no responses had been received.

Urgent appeals

631. On 21 July 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and express and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, regarding the arrest of journalist **Aklilu Solomon**. Eritrean security officers reportedly arrested Solomon at his home on 8 July, and took him to an undisclosed location. Ten days earlier, authorities had stripped the journalist of his press accreditation, presumably for reporting on families of soldiers who had died during Eritrea's 1998-2000 war with Ethiopia, which contradicted State media coverage. In view of the incommunicado nature of his detention at an unknown place, fears were expressed that he may be at risk of torture or other forms of ill-treatment.

632. On 23 September 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, regarding **12 members of the Eritrean Bethel Church**. They were reportedly arrested on 7 September 2003 at a prayer meeting in a house in Asmara and reportedly held at the 5th Police Station. These arrests follow the alleged targeting of members of minority Christian churches. It is alleged that between February and May 2003 an uncertain number of members of more than 12 evangelical churches were arrested without charge or trial. In addition, it is reported that they were subjected to torture and other forms of ill-treatment allegedly in order to force them to sign statements abandoning their faith. They were also told that their prayer meetings and church gatherings were illegal. According to the information received, about 250 members of minority churches are currently detained as prisoners of conscience, including 57 male and female students who are reportedly being held in metal shipping containers at Sawa military camp in western Eritrea. In the light of the reports on allegation of torture, serious fears were expressed that the above-named persons may be at risk of torture and other forms of ill-treatment.

633. On 24 September 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Aster Feshazion**, former Head of Social Affairs in the Ministry of Social Welfare; **Hamed Hamed**, former Head of the Middle East and North Africa Department at the Ministry of Foreign Affairs; **Germano Nati**, former Head of Social Affairs in the Southern Red Sea Zone; **Mahmud Sherifo**, former Vice-President and former Minister for Foreign Affairs; **Petros Solomon**, former Minister of Defence; **Hailie Woldensae**, former Foreign Minister and former Minister of Finance and Development, who is suffering from diabetes; **Ogbe Abraha Ingda**, former Minister on Trade and Industry, who is suffering from asthma; **Beraki Ghebreslasse**, former Minister of Information; **Berhane Ghebregzabher**, former Commander of the Ground Forces in the Eritrean Defence Forces; **Stefanos Syuom**, former Director-General of Inland Revenue, and **Salih Idris Kekya**, former Minister of Transport and Communication. According to the information received, these 11 former senior officials continue to be in prison, in spite of opinion No. 3/2002 of the Working Group on Arbitrary Detention, adopted on 17 June 2002, which considered their detention as being arbitrary and in contravention of articles 9 and 10 of the Universal Declaration on Human Rights, and in spite of an urgent appeal sent by the Special Rapporteur on the right to freedom of opinion and expression, dated 20 September 2001, and a joint urgent appeal from the Special Rapporteur on the question of torture, the Special Rapporteur on the right to freedom of opinion and expression and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, dated 29 October 2001. These 11 persons were arrested on 18 September 2001 in Asmara by members of the Eritrean Defence Forces after having written, in May 2001, an open letter criticizing the concentration of powers in the hands of the President of the Republic and calling for reforms and meetings of the National Assembly. These persons are being held in incommunicado detention, without access to their lawyers nor to their relatives. Their whereabouts remain unknown. In addition, it was also reported the arrest, in early May 2002, of Ms. Roma Gebremichael, Mr. Hailie Woldensae's wife. She is being held in incommunicado detention without charge or

trial. In June 2002, she reportedly became seriously ill in detention and had to be transferred to a hospital.

634. On 24 September 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Said Abdulkadir**, chief editor and founder of the newspaper *Admas*, and employee of the Ministry of Information's Arabic-language newspaper, *Haddas Eritrea*; **Yosuf Mohamed Ali**, chief editor of the newspaper, *Tsigenay*; **Amanuel Asrat**, chief editor of the newspaper, *Zemen* ("Time"), and Eritrean People's Liberation Front (EPLF) member since the 1970s; **Temesgen Gebreyesus**, sports reporter on the newspaper *Keste Debena* ("Rainbow"); **Mattewos Habteab**, editor of the newspaper *Meqaleh* ("Echo"); **Dawit Habtemichael**, assistant chief editor and co-founder of the newspaper *Meqaleh*; **Medhanie Haile**, assistant chief editor and co-founder of the newspaper *Keste Debena*; **Dawit Isaac**, editor and co-owner of the newspaper *Setit*; **Seyoum Tsehaye**, freelance photographer; and **Fessaye Yohannes** ("Joshua"), reporter and co-founder of the newspaper *Setit* and a EPLF veteran since 1977. These cases were brought to the attention of the Government through an urgent appeal sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 14 December 2001 and through a joint urgent appeal sent by the Special Rapporteur on the question of torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on 9 April 2002 (see E/CN.4/2003/68/Add.1, para.503; and E/CN.4/2003/67/Add.1, para. 203). No response has been received yet in this connection. The above-named individuals were reportedly arrested by the police between 18 and 21 September 2001, in the wake of the closure of all privately-owned newspapers by the Government. It is reported that these 10 journalists were initially held incommunicado at the 1st Police Station in Asmara and were not taken to court within the 48-hour limit prescribed by law, nor charged with any offence. On 31 May 2002, they reportedly started a hunger strike demanding a fair trial. According to the information received, on 3 April 2002, nine of them were moved to undisclosed places of detention and Dawit Isaac, who reportedly had undergone medical surgery, was taken under guard to a hospital in Asmara.

635. On 1 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, concerning **student members of minority Christian churches**, who were reportedly held incommunicado in harsh conditions in metal shipping containers at Sawa military camp in western Eritrea. 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 a joint urgent appeal in connection with their alleged situation on 23 September 2003. No response had been received from the Government so far. According to information recently received, while 51 students have been released since then, six male and female students continue to be held incommunicado. They are reportedly kept in underground cells. A man known as **Iyob**, a pastor of the Kale Hiwot (Word of Life) church, an evangelical Christian church based in Mendefera, as well as **seven other members of his congregation**, were reportedly arrested by the police on 23 November 2003 in Mendefera. These persons are said to have been held incommunicado at a police station in Mendefera since their alleged arrest. Allegations

have been received according to which they have been subjected to torture or other forms of ill-treatment in an attempt to force them to abandon their faith. The reason for their arrest has reportedly not been disclosed and they have allegedly not been charged with any offence.

Observations

636. The Special Rapporteur considers it appropriate to draw attention to the concerns of the Committee on the Rights of the Child (CRC/C/15/Add.204, paras. 31, 59), which indicated that corporal punishment is not expressly prohibited by law and is widely practised in the home and in institutions. Moreover, it is concerned that juvenile offenders deprived of their liberty are not separated from adults.

Ethiopia

637. By letter dated 11 July 2003, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information concerning a number of **clergymen and demonstrators**. They were reportedly arrested and beaten up by the police during a demonstration held on 26 December 2002 at Addis Ababa's Lideta Mariam Orthodox church. Those arrested were believed to have been taken to a police training camp located 30 km from the city, where they were allegedly held for five days without being brought before a court. They were reportedly forced to dive fully clothed into a barrel of cold water. It is also reported that deacons from the church had their heads shaved and were forced to sleep on gravel, run barefoot on stone grounds and walk along a road on their knees.

638. By letter dated 26 November 2003, the Government reported that the violent incident originated from the dispute on issues of administration of church properties between the administrators of Lideta Mariam Church and the Central Administration of the Ethiopian Orthodox Church, the supreme administrator of the Ethiopian Orthodox Synod (EOS). Rejecting an unfavourable court decision, the Lideta Mariam Church administrators instigated the followers of the church to attack the police force on duty in executing the Court's decision. Consequently, some police members on duty were injured and property was damaged. To pacify the chaotic situation, the police force arrested the perpetrators, most of whom were released the same day and some on the following day on bail. At the time, the constitutional rights of all the detainees were fully observed. A criminal charge against 10 individuals actively involved in the series of criminal acts is proceeding, and no one is presently under detention in connection with the disturbances. The allegations of torture and arbitrary detention at the police training camp are untrue and without foundation.

639. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997, 1999 and 2001, for which no responses had been received.

Follow-up to previously transmitted communications

640. By letter dated 12 March 2003 the Government replied to a letter dated 17 October 2002 concerning **Abdi-hiss Ahmed Dahir** (E/CN.4/2000/9, para. 436) and

Gaali Nerredin Hussein (E/CN.4/1998/38/Add.1, para. 122). The Government reported that no police record was found in respect of the arrest or detention of the individuals mentioned, and therefore the allegation is factually incorrect and unfounded.

641. By letter dated 9 August 2002, the Government replied to a joint urgent appeal dated 14 June 2002, regarding a disturbance in Awassa, the regional capital of the Southern Nations', Nationalities' and Peoples' Regional State (E/CN.4/2003/68/Add.1, para. 506). According to the Government, some people in the city were deliberately incited by certain provocateurs, bent on sabotaging the upgrading of the status of the city of the Awassa to a Special Zone with autonomous administration of its own, because of their own political agenda. These individuals organized anti-peace elements for violence in a place called "Talo" outside the city on 24 May 2002. The cabinet members of the Sidama Zone administration and higher administrators of the Awassa Zuria Woreda arrived at the place and informed the organizers that unauthorized demonstrations were prohibited. Following this intervention, most of the people gathered at "Talo" returned to their homes, while the rest threatened to attack the administrators and the police. They marched in an illegal demonstration in which most of them were armed and tried to disrupt the peace and security of the people, and clashed with the police. Some among the demonstrators fired shots leading to the death and wounding of individuals. During the incident, 17 people including two police officers were killed and 23 others, including one policeman, were wounded. Excessive force was not used and the police exercised maximum restraint to bring the situation under control. With regard to individuals arrested following this incident, the arrests and detentions were made according to the constitutional principles and the criminal procedure law of the country. The police are now finalizing their investigation against the ringleaders of the violence and the instigators. It did not involve children or the residents of the city who were innocently involved. The allegation that the Ethiopian Defence Forces were involved is completely unfounded.

France

642. Par une lettre datée du 5 juin 2003, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les droits de l'homme des migrants, a informé le gouvernement qu'il avait reçu des renseignements selon lesquels **Blandine Tundidi Maloza**, une femme originaire de la République démocratique du Congo en rétention à la ZAPI 3 de Roissy, aurait été blessée par un policier après que ce dernier aurait tenté de la forcer à embarquer dans un vol à destination de Douala (Cameroun), le 10 mars 2001. Il lui aurait donné plusieurs coups de pied, après l'avoir déséquilibrée en la tirant brusquement vers l'arrière et traînée sur le sol par les cheveux. Un agent du Ministère des affaires étrangères en service à la ZAPI 3 aurait remarqué la présence sur les jambes de Blandine Tundidi Maloza de multiples plaies ouvertes. Une enquête préliminaire aurait été ouverte à la suite d'un rapport adressé au procureur de la République près le tribunal de Bobigny par ce même agent du Ministère des affaires étrangères.

643. Par une lettre datée 23 septembre 2003, le gouvernement a répondu que l'enquête menée par l'Inspection générale de la police nationale à la demande du parquet de Bobigny aurait établi que Blandine Tundidi Maloza et huit autres

personnes avaient refusé d'embarquer dans l'avion qui devait les mener à Douala et s'étaient échappées sur la piste de l'aéroport en courant et en se déshabillant. Ces personnes avaient été rattrapées par les fonctionnaires de police qui durent les maîtriser en usant des gestes et techniques professionnels d'intervention. À cette occasion-là, Blandine Tundidi Maloza avait été blessée à la jambe. Ces personnes avaient ensuite été ramenées en zone d'attente. De retour dans la zone d'attente, Blandine Tundidi Maloza avait fait une demande d'asile politique. Le 11 mars 2001, elle avait été examinée par un médecin qui délivra un certificat médical indiquant que son état de santé était compatible avec son maintien en zone d'attente, ce qui avait été par la suite autorisé par un juge. Le 15 mars 2001, il était notifié à Blandine Tundidi Maloza une autorisation d'entrée en France au titre d'asile, et un sauf-conduit valable huit jours lui était octroyé. Au vu des résultats de l'enquête, la procédure avait été classée sans suite en juillet 2001. Blandine Tundidi Maloza a été reconnue réfugiée au sens de la Convention relative au statut des réfugiés, le 30 avril 2003. Le gouvernement a finalement informé que depuis lors elle se trouve sous la protection juridique et administrative de l'Office français de protection des réfugiés et apatrides.

644. Par une lettre datée du 24 septembre 2003, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements selon lesquels **Philippe Bourdet**, incarcéré à la maison d'arrêt de Caen depuis le 25 août 2001, serait atteint d'algodystrophie, maladie qui aurait entraîné une perte de sa capacité de travail. Malgré son état, il ne lui aurait pas été fourni de fauteuil roulant et, jusqu'en novembre 2001, le port de chaussures orthopédiques lui aurait été interdit. Les fonctionnaires de l'administration pénitentiaire auraient aussi diminué sans avis médical les posologies qui lui avaient été prescrites pour lutter contre une phlébite ainsi que contre l'algodystrophie. Une opération chirurgicale prévue en septembre 2001 n'aurait pas pu être réalisée. Par ailleurs, il serait dans l'obligation de faire la promenade et de nettoyer sa cellule.

645. Par une lettre datée du 24 novembre 2003, le gouvernement a répondu que Philippe Bourdet avait été mis en liberté sous contrôle judiciaire le 8 mars 2002. Quelques semaines avant son intervention, il avait fait une embolie pulmonaire et un traitement anticoagulant avait été mis en route. Lors de son incarcération, ce traitement avait été pris en charge par l'Unité de consultation et de soins ambulatoires. Les consultations médicales avaient été fréquentes et le suivi infirmier bihebdomadaire. Le gouvernement a également informé que l'architecture de la maison d'arrêt de Caen ne permettait pas les déplacements en fauteuil roulant et que le détenu utilisait des cannes anglaises. Les chaussures orthopédiques initialement remises au détenu s'étant avérées inopérantes, une nouvelle prescription n'avait pas été effectuée. Les médicaments étant exclusivement distribués par le personnel hospitalier, le personnel n'était pas dans la capacité de diminuer les posologies. Finalement, le gouvernement a informé que le détenu n'était pas identifié comme étant porteur d'une pathologie lourde. Ce dernier n'avait saisi ni le Ministre de la justice ni le tribunal administratif de plaintes concernant ses conditions de détention ou sa prise en charge sanitaire.

Gambia

646. By letter dated 29 July 2003, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on extrajudicial,

summary or arbitrary executions, and the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur advised the Government that he had received information concerning **14 people**, including **minors** and **Omar Barrow**, a journalist and Gambia Red Cross volunteer, who was wearing a Red Cross insignia. They were reportedly killed, and dozens injured by security forces during demonstrations organized by the Gambian Students Union on 10 and 11 April 2000 in Banjul, Brikama and other towns. The demonstrations were allegedly held in protest against the death allegedly after torture of **Ebrima Barry**, a student, by members of the Brikama Fire Service and the rape of a **13-year-old schoolgirl** by a police officer. It is reported that security forces made an excessive and indiscriminate use of force to break up the demonstrations. The demonstrations in Banjul on 10 April 2000 reportedly became violent when security forces attempted to disperse the crowd by using tear gas, batons and rubber bullets. The security forces are reported to have fired into the crowd. Autopsies are said to have confirmed that live ammunition had been used. It is also alleged that some demonstrators threw stones at security forces, burned tires and set fire on buildings. Many students arrested during and after the demonstrations are believed to have been subjected to ill-treatment while in custody by security forces, in particular the National Intelligence Agency. Although reports made by a Commission of Inquiry set up by the Government after the incidents and by the Coroner allegedly confirmed that security forces officers were responsible for the casualties, Government officials allegedly stated on 6 January 2001 that in the spirit of reconciliation, none would be prosecuted. It is reported that officers suspected of the death of Ebrima Barry have been arrested.

647. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 for which no responses had been received.

Georgia

648. By letter dated 21 July 2003, the Special Rapporteur advised the Government that he had received information, concerning **Roman Amanatov**, an ethnic Greek, **Mahir Abbasov** and **Vuqar Alirzayev**, both Azerbaijani, and a fourth man whose name is not known. They were reportedly arrested on charges of theft in June 2001. They were reportedly beaten on 23 June 2001 by police from Kolagiri police station in Bolnisi District in the south of Georgia, and were believed to have been. It is alleged that at least one of the men had had his feet punctured with a hand drill and lit cigarettes were applied on several parts of his body. It is reported that one of the men sustained a fractured skull. The police officers reportedly explained the injuries by saying that the men had assaulted each other. The office of the Bolnisi District procurator reportedly opened a criminal investigation into the allegations of torture and ill-treatment on 25 June 2001.

Observations

649. The Special Rapporteur wishes to reiterate that the invitation issued by the Government to him to visit the country remains on his agenda.

Greece

650. By letter dated 11 July 2003, sent jointly with the Special Rapporteur on violence against women, and the Special Rapporteur on contemporary forms of racism, advised the Government that he had received information concerning **Yannoula Tsakiri**, a 21-year-old woman from Nea Zoi, a Romani settlement in Aspropyrgos. She was reportedly assaulted by police officers, on the morning of 8 January 2002, when police raided the settlement. According to the information received, a large group of police officers approached the settlement with their weapons drawn. The police were accompanied by a judicial official, but allegedly did not produce any arrest or search warrants. It is alleged that they ordered all the Roma out of their shanty-homes, and forced those already outside to lie face down on the ground. The police officers searched, apparently indiscriminately, almost all the shanty-homes in the settlement for drugs, while the Roma, assembled outside, were allegedly shouted and sworn at, and subjected to racist insults. It is believed that the conduct of police was deliberately intended to frighten and humiliate. One police officer allegedly pointed his gun at a 13-year-old girl and another police officer reportedly shouted at a disabled 13-year-old boy to stand up, and then grabbed him by the arms to raise him. It is reported that when she tried to protect the latter, Yannoula Tsakiri was pushed away, kicked in the back and knocked to the ground. She was allegedly two and a half months' pregnant at the time and as a result, started to bleed. The following day she was taken to hospital where she was reportedly diagnosed with a partially detached placenta. Three days later, she reportedly suffered a miscarriage. She is believed to have filed a complaint with the Athens prosecutor's office. The Special Rapporteurs have been informed that according to the police authorities, an inquiry into these allegations found no evidence to support her allegations. It is also alleged that during the raid several other Roma were physically ill-treated by police officers. **Pavlos Christodouloupoulos**, aged 22, was reportedly kned in the stomach, and **Michalis Aristopoulos** slapped three times. Some other 15 men were allegedly detained and taken to Aspropyrgos police station with a view to checking whether they had any outstanding traffic fines or other penalties. It is alleged that at the police station, police officers started to beat **Athanasios Sainis**, who had been found to be in possession of a small amount of hashish, when he refused to state from whom he had bought it. These men were reportedly held at Aspropyrgos police station, without food or water for the whole day. All but five who were allegedly charged with possession of drugs were released on the evening of 8 January 2002. Those charged were reportedly held overnight. It is alleged that before being released, they all had their fingerprints registered, and were asked to sign statements they had given, which were allegedly not read back to those who were unable to read.

651. By letter dated 13 October 2003, the Government informed that as a result of information about drug traffic at a Roma settlement in the Nea Zoi area of Aspropyrgos, on 28 January 2002, a police operation took place, with the presence of a judiciary official during which four persons were arrested and certain quantities of drugs were seized. During the operation no reprehensible actions of policemen were mentioned or fell under the cognisance of the police officer in charge. On 1 February 2002, **Yannoula** (Giannoula) Tsakiri filed to the District Attorney a written complaint against an unknown policeman, who according to her allegations kicked her during the operation, resulting in the abortion of the embryo she carried. A penal prosecution was indicted against an unknown person by the District Attorney's Office for

violation of articles 308 section 1 and 309 of the Criminal Code and the preliminary examination proceeding was ordered, now pending. Following an administrative enquiry which was conducted by a higher rank police officer, the findings were that the above mentioned person was not arrested and that no trace of her abuse fell under the cognisance of any of the examined witnesses. Moreover, the administrative enquiry concluded that **Pavlos Christodouloupoulos** and **Michalis Aristopoulos** had not been subjected to abuse by policemen. **Athanasios Sainis** was arrested because a quantity of drugs was found in his possession, which, as he readily confessed, he bought for his personal use from a person that he explicitly named and who was arrested. No psychological or physical violence was exercised against him by policemen, since such acts would have fallen under the cognisance of the judiciary official who participated in the police actions for the observance of legality. According to the police officer who conducted the administrative enquiry, the accusations are characterised by exaggeration and through intimidation they aim at a relaxation of police measures taken in the above-mentioned area for prevention and suppression of crimes relating to drug use and traffic. The Government informed that because of Roma's practice for defaming policemen, with the obvious aim of weakening police control, this is why in similar police operations, judiciary officials always participate in order to provide maximum guarantees for the observation of legality.

652. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002 for which no response had been received.

Follow-up to previously transmitted communications

653. By letter dated 6 January 2003, the Government provided information concerning a letter sent jointly with the Special Rapporteur on the rights of migrants and the Special Rapporteur on extrajudicial, summary or arbitrary executions on 17 September 2002 concerning:

654. **Bledar Qoshku** (E/CN.4/2003/3/Add.1, para. 222) and the six foreigners were tried on the charge of illegally trying to enter Greece. The prosecutor found no evidence in the case files which showed any excessive use of force by the involved Greek border guards; that they shot Bledar Qoshku in legitimate self-defence (article 22 of the Penal Code). This decision was approved and confirmed by the Appeals' Prosecutor of Western Macedonia.

655. **Gentjan Çelniku**, (ibid., para. 223), wanted for a series of serious assaults, was fatally injured on 21 November 2001 when he failed to comply with police orders to stop. The responsible police officer has been arrested and released under restrictive conditions. A Sworn Administrative Inquiry is in progress.

656. By letter dated 6 January 2003, the Government provided information concerning a letter sent jointly with the Special Rapporteur on the rights of migrants on 17 September 2002:

657. Concerning **Arjan Hodi** (E/CN.4/2003/68/Add.1, para. 567), the Government informed that a Sworn Administrative Inquiry has been carried out and the responsibility of some police officers was established. Two were committed to the

first Degree Disciplinary Council facing the penalties of dismissal and discharge, respectively. The Council did not impose any penalties on them, and against this decision, the Head of the Administrative branch has lodged an appeal to the Secondary Disciplinary Council. A fine was imposed on another police officer. Penal proceedings against another police officer for torture have begun.

658. Concerning **Rangasamy Nadaraja** (ibid., para. 568), the Government informed that they have no information on this case.

659. Concerning **Refat Tafili** (ibid., 570), the Government informed that a Sworn Administrative Inquiry has been carried out and two police officers that were found responsible and were committed to the First Degree Disciplinary Council to face the penalties of dismissal and discharge, respectively. The Council has imposed the penalties on them and the offenders may appeal to the Secondary Disciplinary Council. The Public Prosecutor started penal proceedings against one of the officers for serious physical injuries. A civil claim has been filed against the State and the hearing of the case is still pending.

660. Concerning **Afrim Salla** (ibid., para. 572), the Government informed that a 12 member group of illegal immigrants on the national road of Kastoria-Florina was intercepted by border guards on 3 June 2001. One of the police officers stumbled and fell and his gun went off injuring Afrim Salla in the abdomen. He was immediately transported to the Hospital of Kastoria and the next day to the Hospital of Thessalonica suffering from paralysis. Afrim Salla stated that he did not want criminal proceedings against the border guard. The case was put in the files both penally and disciplinarily.

661. By letter dated 9 December 2003, the Government provided further information concerning the letter sent jointly with the Special Rapporteur on 17 September 2002.

662. Concerning a number of foreign nationals that were reportedly beaten by coastguards in the old Academy of the Merchant Navy at Souda, Crete, in May-June 2001 (ibid., para. 569), the Government informed that a Statutory Administrative Investigation was carried out and disciplinary penalties were imposed on one Port Police Officer and five Port Guardians. Three Port Guardians, who were serving with the Special Missions Squad at the Port Authority of Chania in Crete, were deprived of their duties and were transferred out of Crete together two Port Guardians, who were serving with the Port Authority of Heraclion in Crete. The file of the Statutory Administrative Investigation was submitted to the Public Prosecutor of Chania Naval Court, who has ordered a regular interrogation procedure.

663. Concerning **Ferhat Çeka** (ibid., para. 571), the Government informed that a summary investigation file was transmitted to the Public Prosecutor's Office of the Thessaloniki Court Martial, who instituted criminal proceedings against one of the patrol soldiers for bodily injury due to negligence. The case was scheduled to be tried by the Court Martial of Thessaloniki, however this did not happen because after the victim filed the charge, the Public Prosecutor ordered a preliminary investigation and as a result, criminal proceedings were instituted against two patrol soldiers for complicity in insult to human dignity. The date for the hearing will likely be autumn 2004 because it will take time to serve subpoenas on the parties, especially on the

victim and the witnesses from Albania, as the Albanian authorities refuse to cooperate in legal assistance matters.

Guatemala

664. Por carta de fecha 8 de octubre de 2003, el Relator Especial recordó al Gobierno varios casos transmitidos en 2002 respecto a los cuales no había recibido respuesta.

Seguimiento de comunicaciones transmitidas previamente

665. Por carta de fecha 13 de julio de 2003, el Gobierno proporcionó más información en contestación a un llamamiento urgente enviado por el Relator Especial el 1.º de marzo de 2002 sobre el supuesto asalto al **poblado de Chocón**, departamento de Izabal, el 29 de enero de 2002 (E/CN.4/2003/68/Add.1, párrs. 581 y 582). El Gobierno informó que el 9 de abril de 2003, el Juzgado Primero de Sentencia Penal, Narcoactividad Regional del departamento de Chiquimula, dictó sentencia relacionada con este caso. Ocho antiguos agentes del Departamento de Operaciones Antinarcóticos (DOAN) fueron sentenciadas a 25 años de prisión por delito de ejecución extrajudicial y tres de ellos a dos años de prisión conmutables por delito de allanamiento ilegal.

666. Por carta de fecha 13 de agosto de 2003, el Gobierno respondió a una comunicación enviada por el Relator Especial el 12 de octubre de 1999 en relación con la situación de **Lorena Carmen Hernández Carranza** (E/CN.4/2000/9, párr. 467). El Gobierno informó que el 27 de julio de 2000, el ministerio público formuló acusación y solicitó la apertura a juicio en contra del imputado. El Gobierno también indicó que la investigación penal seguía abierta. El ministerio público solicitó posteriormente la clausura provisional a fin de poder incorporar elementos de prueba adicionales. Una vez que se incorporen los medios de prueba esperados, la Fiscalía solicitará la reapertura de la investigación y en su caso, la apertura a juicio o el sobreseimiento.

Guinea

667. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 2002 et 2001, au sujet desquels il n'avait pas reçu de réponse.

Guinea-Bissau

668. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 2002, 1999 et 1998, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

669. Le 12 février 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Président-Rapporteur du Groupe de travail sur la détention arbitraire et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, concernant **Joao Vas Mane**,

Vice-Président de la Ligue guinéenne des droits de l'homme, qui aurait été arrêté le 29 janvier 2003 par des membres des services de sécurité et se trouverait depuis lors détenu au secret à la Segunda Esquadra. Il n'aurait pas été présenté devant un juge. Son arrestation serait liée à sa participation, le 28 janvier 2002, à une émission de radio pendant laquelle il aurait critiqué le Président Kumba Yala d'avoir mobilisé des fonds pour le voyage des pèlerins à la Mecque tandis que des fonctionnaires de l'État seraient restés sans leurs salaires depuis quatre à sept mois.

670. Le 20 mars 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires et le Président-Rapporteur du Groupe de travail sur la détention arbitraire, concernant **Serifo Baldé**, un lieutenant, **Almane Alam Camará**, un major, et les officiers militaires suivants: **Arafam Mané**, **Fode Mandjam**, **Queita Mané** et **Mamadú Turé**, qui seraient tous détenus dans les camps militaires de Mansoa et de Cumeré au secret et sans inculpation depuis leur arrestation en novembre et décembre 2002. D'autres officiers dont les noms n'ont pas été rendus publics seraient également détenus. Ils seraient soupçonnés d'avoir tenté de renverser le gouvernement du Président Kumba Yala. Ils auraient été frappés, ayant les jambes et les bras liés. Almane Alam Camará aurait eu la barbe brûlée. **Mussá Cassamá**, un ancien lieutenant proche du défunt général Ansumane Mané et de confession musulmane, serait décédé en détention le 9 ou le 10 mars 2003. Le 13 mars 2003, sa famille aurait indiqué dans une lettre aux autorités que son corps portait des signes de tortures violentes. Aucune autopsie n'aurait néanmoins été pratiquée. Serifo Baldé se trouverait dans le coma à l'hôpital de la base aérienne militaire.

Haiti

671. Par une lettre datée du 13 août 2003, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, a informé le gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

672. Plusieurs manifestants, dont **Josué Méridien**, responsable de l'UNHO, un syndicat d'enseignants, auraient été frappés à coups de bâton lors de la répression d'une manifestation tenue le 20 mars 2003 à Port-au-Prince. La manifestation, composée majoritairement d'enseignants, de syndicalistes et d'étudiants, aurait visé à protester contre le régime de Jean Bertrand Aristide. Au cours de cette manifestation, plusieurs unités de la Compagnie d'intervention et de maintien de l'ordre (CIMO) seraient intervenues et auraient fait un usage excessif de gaz lacrymogènes, coups de bâton et de crosse, coups de poing et de pied. Plusieurs personnes auraient également été arrêtées. **Gotson Jocelyn**, **Kosi Roosevelt**, **Rommey Cajuste** et **Jean-Baptiste François**, journalistes, auraient subi un traitement similaire.

673. **Lucknell Adinot**, journaliste, aurait été frappé par un agent de police alors qu'il couvrait une manifestation le 30 août 2002 à Miragoâne. L'incident aurait été déclenché par le refus du journaliste d'enlever les barricades installées par les manifestants, tel que lui aurait ordonné l'agent de police.

674. Par une lettre datée du 30 septembre 2003, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a informé le gouvernement qu'il avait reçu des

renseignements selon lesquels **plusieurs détenus du Pénitencier national**, et en particulier **Max Ambroise**, auraient été passés à tabac par des gardiens du centre le 15 novembre 2001. Un gardien aurait giflé un détenu qui aurait à son tour giflé le gardien. Suite à cela, des gardiens, accompagnés par l'assistant du directeur du centre et un inspecteur, seraient venus trouver le détenu en question et l'auraient battu. Ensuite, ils auraient ordonné aux autres détenus de sortir de leur cellule et les auraient passés à tabac. Max Ambroise aurait reçu un coup de bâton à la tête qui aurait provoqué sa mort. Ce décès aurait immédiatement provoqué une émeute parmi les prisonniers, à laquelle les gardiens auraient répondu en utilisant des gaz lacrymogènes, des armes à feu et des coups de bâton. Plusieurs détenus auraient été blessés et au moins cinq d'entre eux seraient décédés lors de cet incident. Lors d'une conférence de presse, le directeur de l'Administration pénitentiaire nationale aurait affirmé que Max Ambroise avait giflé un gardien et que des dispositions avaient été prises pour le placer en isolement. Cependant, comme il aurait eu des difficultés pour respirer, il aurait été conduit à l'infirmerie. Le croyant mort, les autres détenus auraient initié une émeute au cours de laquelle ils auraient essayé de s'évader. C'est alors que des agents pénitentiaires, des unités antiémeutes, des agents de la CIMO et de la Swat-Team seraient intervenus. Des tirs de gaz lacrymogènes et des coups de feu auraient suivi, au cours desquels Max Ambroise serait mort asphyxié. Les Rapporteurs spéciaux ont également été informés que, bien qu'initialement prévu pour 800 personnes, le pénitencier national accueillerait plus de 2 000 détenus. La plupart seraient en détention préventive.

675. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 2001, 1999 et 1997, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

676. Le 30 juillet 2003, le Rapporteur spécial a envoyé un appel urgent concernant **Judith Roi** (f), chef de file du Regroupement patriotique pour un renouveau national (REPAREN), **Joseph Jeantel**, **Joseph Chavanne** et **Adeler Reveau**, membres du REPAREN. Ils auraient été arrêtés le 14 juillet 2003 par la police nationale dans le cadre d'une enquête sur des attaques contre une centrale hydroélectrique. Le jour de leur interpellation, ils auraient été battus par des agents de police avec des barres en fer et passés à tabac par des hommes en civil. Durant la première semaine de leur détention, ils n'auraient pas été autorisés à recevoir de visites.

677. Par une lettre datée du 25 août 2003, le gouvernement a répondu que Judith Roi était détenue à l'Administration pénitentiaire nationale de Pétion-Ville, où elle recevait, depuis le 23 juillet 2003, des visites et des soins médicaux. Les allégations selon lesquelles elle et ses collègues auraient été torturés seraient, d'après le gouvernement, sans fondement. Le gouvernement a également informé que Judith Roi avait été présentée au parquet du tribunal civil de Port-au-Prince le 1^{er} août 2003 et que le dossier avait été confié au juge d'instruction.

Honduras

678. Por carta de fecha 29 de julio de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, notificó al

Gobierno que había recibido información según la cual **H. R. S.**, de 17 años, y su hermano mayor, **Olban Salinas**, habrían sido interceptados por soldados del elemento elite del ejército al dirigirse al cuarto donde vivían en la comunidad de Dos Caminos en la provincia de Villanueva, en la noche del 7 de febrero de 2003. Habrían sido llevados a un lugar desconocido. Sus cadáveres presuntamente con marcas de tortura, amordazados con sus manos y piernas atadas atrás, y acribillados a balazos habrían sido encontrados al día siguiente al lado de la calle de tierra en Cerro Cascabel.

679. Por carta de fecha 28 de octubre de 2003, el Gobierno contestó que la Dirección General de Investigación Criminal (DGIC) proporcionó información relativa al hallazgo de los cadáveres y que, de acuerdo con la autopsia, los cuerpos presentaban heridas en el tórax producidas por arma de fuego. La unidad de investigación de muertes de menores inició de oficio la investigación. Hasta el momento no había sido posible dar paso a la etapa judicial por cuanto no se contaba con los medios de prueba que permitan la identificación o individualización de los autores, los cuales resultan necesarios para tal fin.

680. Por carta de fecha 16 de octubre de 2003, el Relator Especial recordó al Gobierno varios casos transmitidos en 1998 y 2001 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

681. El 22 de mayo de 2003, el Relator Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos a propósito de la situación de **miembros del Centro de Prevención, Tratamiento y Rehabilitación de las Víctimas de la Tortura y sus Familiares (CPTRT)**, una organización de derechos humanos que, además de llevar a cabo actividades de asistencia a las víctimas de tortura, investigaría y daría apoyo a investigaciones sobre delicados casos de violaciones de derechos humanos por parte de agentes de la policía. El 12 de mayo de 2003 por la mañana, las oficinas del CPTRT ubicadas en el barrio de San Rafael, Tegucigalpa, habrían sido saqueadas. Documentos confidenciales y archivos informáticos también habrían sido escudriñados. Los intrusos habrían dejado un par de zapatos encima de una mesa, acto que en Honduras podría ser interpretado como una amenaza de muerte. Según la vicedirectora del CPTRT, el saqueo de las oficinas está relacionado con las actividades del centro y tendría por objetivo la búsqueda de información confidencial y la intimidación de sus miembros.

682. El 8 de octubre de 2003, el Relator Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, 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 y el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas respecto a la situación de **Marcelino Miranda y Leonardo Miranda**, dos hermanos dirigentes indígenas del Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (COPINH), así como sobre su abogado **Marcelino Martínez Espinal**, antiguo miembro de la organización no gubernamental Comité de Familiares de Detenidos-Desaparecidos en Honduras (COFADEH). Marcelino y Leonardo Miranda habrían sido detenidos el

8 de febrero de 2003 por agentes armados de policía. Ambos se enfrentarían a los cargos de lesiones y asesinato. En el momento de su detención y durante su reclusión en la prisión de Gracias, departamento de Lempira, habrían sido sometidos a actos de tortura. En este contexto, la Fiscalía Especial de las Etnias habría presentado una querrela contra varios policías por tortura y abuso de autoridad durante su detención. Sin embargo, según la información recibida, hasta la fecha, no se habrían realizado progresos en la investigación. Durante su detención, Marcelino y Leonardo Miranda habrían sido objeto de intimidaciones y amenazas de muerte para presionarles a aceptar los cargos en su contra. Su abogado, Marcelino Martínez Espinal, también habría sido objeto de hostigamientos, lo cual habría afectado su labor como abogado. Habría manifestado no sentirse capaz, por razones de seguridad personal, de continuar con sus visitas a los dirigentes indígenas detenidos.

India

683. By letter dated 16 September 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following individual cases:

684. **Abdul Hamid Wani**, a 40-year-old resident of Bagi Methab, Chadoora, was reportedly arrested on 26 November 2002 by personnel from Nowgam police station. It is alleged that on 30 November 2002, his father was informed by a constable that he had been taken to a medical institute in Srinagar. It is reported that he was beaten with iron rods and that his neck was broken as a result. He reportedly died on 2 December 2002.

685. **Nadukaruppasami**, a 40-year-old resident of Thottipalayam village, Sengadi, Vellamadai Post, Coimbatore District, and member of the Hindu Vanniyar community, was reportedly arrested by five policemen of Periyayanayakanpalayam on 4 December 2002, put into a jeep and beaten on his knees and back. He was reportedly taken to a police station, where he was beaten and chillies were put in his eyes. Some hours later, his nephew, **Karuppasami**, was also reportedly arrested by the police. At the time of the arrest he was reportedly slapped. It is alleged that he was released when their relatives, and in particular his uncle **Chinnakaruppasami**, Nadukaruppasami's brother, went to the police station. According to the information received, Chinnakaruppasami was then taken into a room of the police station and beaten with lathis by three policemen and the Periyayanayakanpalayam Circle Inspector. The two brothers were reportedly handcuffed and taken to Sathyamangalam police station, where they were made to remove their clothes and kept handcuffed. Chinnakaruppasami is believed to have been severely beaten when he refused to eat the food he had been given. On 5 December 2002, they were reportedly interrogated about a burglary. It is alleged that during the interrogation sessions they were severely beaten, in particular with lathis, kicked and had chilli powder put in their eyes and open wounds. Nadukaruppasami was reportedly hung from the ceiling. It is alleged that he died as a result of the treatment. It is reported that the two brothers may have been arrested in connection with complaints they had filed following threats allegedly received from policemen.

686. **Dhanapal Kaliyan**, a 42-year-old resident of Orathanadu Taluk, Thanjavur District, Tamil Nadu, was reportedly arrested at his home on 27 July 2002 by four police officers from Thanjavur police station, where he was allegedly taken and where

he is believed to have been repeatedly and severely beaten, in particular with lathis. It is also alleged that his thumbs were tied with a rope to the bars and his legs stretched and tied in a painful position, and that he was beaten again while he was immobilized. On 30 July 2002, he was reportedly taken to a doctor after being told not to report any ill-treatment. He was allegedly taken back to the police lock-up on the same day. Other members of his family, in particular **Selvaraj**, his brother, and **Kathir**, his nephew, are reported to have been arrested on 29 July 2002. Kathir was allegedly beaten with a lathi and slapped. On 2 August 2002, Dhanapal Kaliyan and Kathir were reportedly brought before a court and subsequently to Thanjavur subjail. Dhanapal Kaliyan was reportedly transferred to Trichy central prison in very poor condition on 5 August 2002. He is reported to have died on 7 August 2002 as a result of the treatment received while in custody. According to the information received, his body presented marks of severe torture.

687. By letter dated 17 September 2003, the Special Rapporteur advised the Government that he had received information on the following cases.

688. **Balwinder Singh** and his sons **Gurmukh Singh** and **Dilbagh Singh**, residents of Gurdaspur, and **Sukhwinder Singh**, resident of Hamrajpur village in Gurdaspur district, were reportedly arrested by approximately 35 police officers on 29 April 2001 at a house in Bhukera village and severely beaten over a two-day period at a police interrogation centre in Gurdaspur. On 30 April **Manjit Singh**, **Randhir Singh Dheer** and other members of their family were allegedly arrested. All were reportedly beaten and subjected to electric shocks at a police station in Batala before being released in the evening of 30 April 2001. According to the information received, when the first group of detainees were brought before a Sessions Court in Gurdaspur, the police told the judge that Gurmukh Singh, Sukhwinder Singh, Manjit Singh and Randhir Singh Dheer had been arrested on 1 May 2001 in a vehicle packed with arms and explosives. The accused disputed the police report, which allegedly contained several inconsistencies. The police also reported that medical examination of the detainees during their detention revealed no signs of torture or other ill-treatment. It is reported that the four detainees and their relatives complained to the Punjab Human Rights Commission (PHRC) of forcible entry, illegal detention and torture by the police. On 12 June 2001 the PHRC reportedly said that charges against them should not be put before the court until the PHRC had investigated their complaint. On 27 July 2001 the police allegedly brought formal charges of illegal possession of arms and explosives against Gurmukh Singh in the court of the Chief Judicial Magistrate in Gurdaspur. In early 2002 Gurmukh Singh was reportedly still detained in the Central Jail, Gurdaspur. The Special Rapporteur has received no further information on the whereabouts of the other three detainees. The PHRC reportedly recommended to the police that disciplinary action be taken against the officers, but the recommendation was ignored and a report was sought from the Home Secretary on the matter by 30 April 2002.

689. **Pushpam**, a 19-year-old woman belonging to the Hindi Parayar community and resident of Gandhinagar Colony, Eravarpaty Post, Usilampatti Taluk, Madurai, was reportedly taken to a police station along with her husband, **Murugan**, on 12 June 2002 from their place of work, Diwakar Dye Factory, at Vaikal Medu, Indira Nagar, Erode. At the police station, they were reportedly fingerprinted and questioned about a murder that had taken place at the factory. Both were released some hours

later. On 15 June 2002, Pushpam was reportedly taken to Sathiram police station, where she was reportedly held by the hair, pushed to the ground, kicked and beaten with lathis, in particular on the thighs and back, by an inspector and a constable. The latter reportedly pulled her hair in all directions, as a result of which she is believed to have been unable to move her neck for two days. She was allegedly told that her husband would be beaten to death and was herself threatened with rape and death several times. On 18 June 2002, she was reportedly raped by a constable at Sathiram police station. It is reported that she was eventually brought before a judge on 20 June 2002.

690. **Gaje Singh**, a 39-year-old tailor and member of the Dalit community in Nayagaon, Ropar District, was allegedly assaulted by police officers on 17 October 2001. Several officers of the 37 Battalion of the Central Reserve Police Force (CRPF) reportedly attacked the village in a revenge attack after an officer was allegedly beaten up by Gaje Singh and his neighbours in a personal dispute over the money charged for some work. It is alleged that after some resistance, CRPF officers in uniform and armed with service weapons returned to the village at about 8 p.m., ransacked several shops and beat Gaje Singh with iron rods, rifle butts and sticks. A handicapped shopkeeper, **Darshan Singh**, and his 78-year-old mother, **Satpal Kaur**, are also reported to have been beaten with iron rods. As a result, Gaje Singh reportedly suffered serious injuries to his head, chest and feet, Darshan Singh, a broken arm and his mother, injuries to her back. Three officers of the regular police who were in the vicinity reportedly did not intervene during the attack, nor did any police officer help the injured. Gaje Singh reportedly filed a complaint at Nayagaon police station and the Punjab police registered a criminal case for minor offences against four CRPF officers.

691. **Kandi Rajendran, Tamiselvib (f), K. Baskaran, Jayalakshmi (f), D. Sasikumar Swaminathan, P.S. Mohan, Natarajan, T. Ravi, S. Vedanayagam, K. Saravanan, Set Selvaraj** and other residents of the Tiruthuraipoondi Taluk were reportedly arrested on 10 May 2003 by the police in connection with the murder of three of their neighbours. All of them were allegedly taken to Tiruthuraipoondi police station, where they are believed to have been subjected to beatings and other forms of ill-treatment by a number of police officers. Jayalakshmi is reported to have been beaten in the presence of her child. Other detainees were allegedly forced to strip naked, punched, kicked, beaten with lathis and slapped by police officers. Some of them were reportedly nearly strangled and threatened at gunpoint. Some others were reportedly subjected to sexual abuse and forced to drink urine. S. Vedanayagam was reportedly suspended from a tree and beaten. Before being released, they were reportedly told not to report their treatment and not to seek medical assistance at a hospital.

692. **Raju Murugesean**, a 45-year-old resident of Nayakanthanda, Lakkampatti Panchayat, Mettur Tk, Salem District Tamil Nadu, was reportedly assaulted by six men, including at least one Special Task Force (STF) official, on 27 August 2002 at Kolathur. It is reported that he was blindfolded, slapped and beaten up while he was allegedly being taken to Gunal Dam, where he is believed to have been interrogated about the criminal Veerappan by other STF police. For a period of 13 days until his release, he was reportedly subjected to further beatings, kicking and electric shocks and threatened with death, while kept blindfolded. According to the information

received, as a result of the treatment he had to be hospitalized, his hands had to be put in plaster, and he suffered from severe pain in the neck and shoulders.

693. By letter dated 24 September 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the Special Rapporteur advised the Government that he had received information on the following cases.

694. **Khemala**, a 35-year-old Adivasi man from Gumdiya Khurd village, Niwali Block, Budwani District, Madhya Pradesh, and member of Adivasi Mukti Sanghatana, Sendhawa, was reportedly beaten to death in police custody on 14 June 2003. It is alleged that upon arrest, he was handcuffed and severely beaten as a result of which he started vomiting blood. His brother, **Sayba**, who was reportedly arrested with him, was allegedly kicked in the stomach by a police officer when he attempted to give Khemala some water in the police station. Khemala was reportedly taken to Budwani Government Hospital after he lost consciousness. According to the doctors, he was already dead by the time he reached the hospital. Persons who were detained at the same police station and who are believed to have witnessed the beatings were allegedly ordered by police officers not to be seen in the vicinity for the next few months. A complaint in connection with this case was reportedly filed with the National Human Rights Commission and with the local police station in June 2003.

695. By letter dated 11 August 2003, sent jointly with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the Special Rapporteur advised the Government that he had received information on a number of persons from indigenous communities, including women and children, gathered under the banner of the **Adivasi Gothra Maha Sabha** (AGMS), an organization of indigenous organizations in Kerala. It was alleged that police and forest protection staff reportedly used excessive force on 19 February 2003 in the Kerala in order to evict some 1,000 indigenous people from the Muthanga Wildlife Sanctuary in Wayanad, where the latter have allegedly occupied land. It was reported that the indigenous people resisted the alleged attack with bows, arrows and other rudimentary weapons. As a result, 15 Adivasis and one policeman were reportedly killed and more than 50 persons injured. It was alleged that men, women and children were beaten up by the police, who also set fire to their makeshift shelters. The police reportedly fired several rounds of rubber bullets.

696. By letter dated 26 August 2003, the Government reported that on 5 January 2003 about 500-800 members of the Adivasi Gothra Maha Sabha trespassed into the Muthanga Wild Life sanctuary, which is part of a highly sensitive ecosystem, and erected checkpoints, posted armed guards and prevented forest officials, local Adivasis and other people of the locality from entering the area. On 19 February 2003, at Thakarparadi, a police contingent along with forest officials repeatedly requested the encroachers to vacate the land. However, there was resistance to the eviction and the police party was attacked with lethal weapons. The police then resorted to the use of absolutely minimum force to disperse the crowd and took into custody some of the agitators. The injured from both sides were removed from the area and given medical assistance. According to the Government, the agitators abducted a police constable and a forest official, assaulted them, poured kerosene over their bodies and threatened to burn them alive if the police action was not stopped. In

this context, and with no other option available, the Executive Magistrate issued orders under the Criminal Procedure Code and the Kerala Police Act to resort to the use of weapons after observing all the due formalities for dispersing the unlawful assembly. During the firing of shots by the police, a tribesman, who had inflicted severe wounds on the hostages, was fatally shot. The Government also reported that all the tribal women and children who were arrested by the forest department for offences under the Forests Acts and remanded to judicial custody had since been released and efforts made to transport them to their villages. Seven cases under various sections of the Indian Penal Code had been registered in Sulthan Bathery Police Station in this connection. No Adivasis were in illegal police custody. All those arrested in connection with the incident had been duly produced before the judicial authorities. Medical assistance and relief were provided to all the injured and affected Adivasi people. The Government also reported that following the recommendations of the National Human Rights Commission, the state government of Kerala had entrusted the Central Bureau of Investigation with the conduct of an independent inquiry into the incidents at Muthanga Wildlife Sanctuary. The inquiry was still in progress.

697. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997, 1998, 1999, 2000, 2001 and 2002 for which no response had been received.

Urgent appeals

698. On 24 July 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers concerning **Ayub Khan Pathan**; his father, **Abdul Latif Pathan**; his mother, **Shamshad Begum A Pathan**; and his wife, **Mehzabin Ayub Khan Pathan**. Ayub Khan Pathan was reportedly arrested on 15 June 2003 and Abdul Latif Pathan on 25 June 2003 by Crime Branch police officers of the Gujarat police. It is alleged that as the Crime Branch officers allegedly denied that they were holding them, their wives filed a habeas corpus petition with the Gujarat High Court on 7 July 2003. The women were reportedly summoned two days later to the Gayakwad Haveli police station, Ahmedabad, to meet their husbands and were reportedly severely beaten, as a result of which they could barely walk. Since they filed the habeas corpus petition, the two women have been subjected to pressure to make them to withdraw it and their husbands were reportedly threatened with death. In particular, the women are alleged to have been intimidated by a Superintendent of Police who was said to have threatened to charge their husbands under the Prevention of Terrorism Act (POTA).

699. On 5 August 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding **Ninthoujam Bobby**, also known as **Dhanajit**, a 30-year-old resident of Keisamthong Elangbam Leikai Khabam Lapka Mandop, Imphal West District, Manipur, and former member of the United National Liberation Front, an armed group seeking the independence of Manipur. His whereabouts are reportedly unknown since his alleged arrest without warrant took place on 30 July 2003 by members of the Assam Rifles 17th Battalion stationed at Chingamathak, Singjamei, Imphal. It is reported that at the time of his arrest, soldiers kicked and beat him with sticks, poured water on him and pinched his nose with pliers. In view of his alleged incommunicado detention at an

undisclosed location and the allegations of mistreatment at the time of his arrest, fears have been expressed that he may be subjected to torture, other forms of ill-treatment or to summary and extrajudicial executions.

700. On 11 August 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding **Ashem Inaoba Singh** (42) and **Oinam Dilip Singh** (43). Ashem Inaoba Singh, Oinam Dilip Singh and **Ningthoujam Mangoljao**, alias Sanjeev, Chief of the Department of Communication and Publicity of the Revolutionary Peoples Front, were reportedly arrested on 6 July 2003 by Manipur police commandos from the Lamphel area of Imphal city. It is reported that after their arrest, Ningthoujam Mangoljao was separated from the two other men. Ashem Inaoba Singh and Oinam Dilip Singh were reportedly taken into police custody at the Manipur Police Commando Barracks. They were released on 7 July 2003 on personal release bond. It is reported that they were informed by the police that Ningthoujam Mangoljao had escaped from police custody. In the morning of 8 July 2003, it is reported that the dead body of Ningthoujam Mangoljao was retrieved from the Nambul River near Irom Meijrao, about 10 km away from the place of arrest. The body was said to bear many bruises and signs of injury. It is alleged that he might have been subjected to torture and killed by the police. According to the information received, the lives of Ashem Inaoba Singh and Oinam Dilip Singh would now be in danger as they are believed to be witnesses to the arrest of Ningthoujam Mangoljao. It is reported that the police are now looking for them in an alleged attempt to terrorize and silence them. Fears were expressed regarding their safety.

Follow-up to previously transmitted communications

701. By letter dated 17 December 2002, the Government responded concerning to a letter sent on 11 November 1998.

702. Concerning **Messamo Lotha** (E/CN.4/1999/61, para. 304), the Government reported that on 28 March 1996, at about 6.25 p.m. security forces brought him in critical condition to West Dimapur police station, stating that he had been apprehended on the basis of a court order issued in Dimapur on 15 March 1996. The security forces alleged that he belonged to the NSCN (IM) organization and held the rank of second lieutenant in the Tenin area. Mr. Lotha was sent to the civil hospital in Dimapur on the same night at 6.50 p.m., where he received treatment with proper security.

703. Concerning **Chon Tangkhul** (ibid., para. 305), the Government reported that he was not arrested and that the allegations are baseless and false.

704. By letter dated 17 December 2002, the Government responded to a letter sent on 16 August 2000 concerning **Surinder Oberoi** (E/CN.4/2001/66, para. 536). The Government reported that an inquiry into the matter revealed that on 27 June 1997 a mob violated section 144 Criminal Procedure Code. They also attacked the police party deputed to protect the United Nations Observer Group Office. Some tear-gas shells were fired to disperse the mob. According to the records, no complaint was found to have been lodged in the police station concerned by Surinder Oberoi.

705. By letter dated 17 December 2002, the Government responded to an urgent appeal sent on 13 January 2000 concerning **Manoj Kumar Tak** (ibid., para. 555). The Government reported that, based on the findings of an inquiry, it was determined that a number of individuals, including the officer-in-charge of the Belau Police Station, conspired to falsely implicate Manoj Kumar Tak and his younger brother Narendra Kumar Tak in a criminal case, accusing them of robbery. The Gstate government of Madhya Pradesh itself took the step of withdrawing the prosecution against the two men and registered a criminal case against the conspirators. The officer-in-charge was removed from service on 7 September 2000. A sum of money had been awarded as immediate interim relief to the victims.

706. By letter dated 17 December 2002, the Government responded to an urgent appeal sent jointly with the Special Rapporteur on the right to education on 13 January 2000 concerning **123 Muslims** from various parts of the country, including **Maulanan Ataur Rahman Wajdi** (E/CN.4/2003/68/Add.1, para. 628). The Government reported that the 123 persons were arrested on 28 December 2001 when they assembled to hold a secret meeting at Rajshree Hall, Sagrampura, Surat, under the cover of the "All India Minorities Education Board", to propagate the activities of and to recruit new members for the Student Islamic Movement of India (SIMI), despite SIMI having been banned organization by the Government in September 2001. A First Information Report was lodged against the individuals under the Unlawful Activities (Prevention) Act 1967; after their arrest they were produced before a court and after an examination of the evidence obtained were remanded in custody for 14 days. The allegation that police ill-treated Attaur Rehman Wajadi is totally baseless and concocted. All the accused were regularly examined every other day by medical doctors from New Civil Hospital, the Mission Hospital, Mahavir Hospital and the Primary Health Centre Sachin. Nothing adverse was found by the doctors to support the allegation of ill-treatment by the police. When Ataur Rahman Wajdi was produced before the court on 12 January 2002, he complained about police torture. Even though nothing had been found in his earlier medical examinations, he was again examined by the prison authorities in accordance with the orders of the magistrate.

707. By letter dated 14 January 2003, the Government responded to a letter sent on 22 August 2001.

708. Concerning **Ramesh Chauhan** (E/CN.4/2002/76/Add.1, para. 616), the Government reported that he was questioned at Worli Police Station in relation to a theft investigation. He was brought to the station on 24 December 1998, but as the inquiry officer was on leave, he was instructed to return at a later date. The complaint was dropped in the meantime and no further inquiries were made. The medical certificate produced by Ramesh Chauhan indicated no external injuries except some tenderness on his feet. A detailed inquiry made by the Assistant Commissioner of Police, Worli Division, revealed that the allegations were false and baseless.

709. Concerning **Manzoor Ahmad Gujree** (ibid., para. 622), the Government reported that inquiries made with regard to his beating revealed that the complaint was baseless. There was, however, a prisoner disturbance in the Kotabalwal jail on the date in question. The subject's name was not found in the entry register of interviewers on that day.

710. Concerning **Mushtaq Ahmad Bhat** (ibid., para. 626), the Government reported that no complaint regarding torture was received by the concerned police station in Baramullah.

711. Concerning **Riyaz Ahmed Waza** (ibid., para. 631), the Government reported that in August 2001 he was interrogated by the security forces and released the next day. He was not tortured and no report of torture was received by the police.

712. Concerning **Javed Ahmed Dar** (ibid., para. 633), the Government reported that no village named Jageer, Handwara falls within the jurisdiction of Police District Handwara, and hence the allegations are baseless.

713. Concerning **Gh. Mohammad Bhat** (ibid., para. 638), the Government reported that no such person was found to be residing in Kralgund village, nor was any report lodged with the police in this matter.

714. Concerning **Zaffar-Ullah** (ibid., para. 641), the Government informed that the alleged perpetrator was not posted at Police Station Bhaderwah on the day of the allegation, nor did he conduct any checks of buses on the Bhaderwah road as alleged. No report with regard to the allegation has been lodged with the local police, and thus the allegations are baseless.

715. By letter dated 8 August 2003, the Government responded to a letter sent on 22 August 2001:

716. Concerning **Manzoor Ahmad Dar** (ibid., para. 623), the Government reported that he was arrested in 1997 by the Special Operation Group Pulwama. A First Information Report was registered against him in Police Station Pulwama and an investigation undertaken. The case was presented in the court and is pending. Manzoor Ahmad Dar was released after one year by the security forces from Camp Pulwama on the condition that he present himself at the camp every Sunday as a means of keeping him under surveillance. When he failed to do so security personnel visited his house, where a brief scuffle took place with the family members. In the scuffle Manzoor Ahmad Dar received minor injuries and was taken to hospital for treatment.

717. Concerning **Mohammed Mustafa** (ibid., para. 629), the Government reported that he was arrested on 30 November 2002 and a case registered against him at Hazrat Nizammudin Police Station. At present he is in judicial custody. The complainant was never detained in the police station, nor did any family member come to the police station. All the documents relating to his arrest were signed. The Government reported that if the alleged acts had occurred, he had free recourse to the Metropolitan Magistrate or the jail authorities the day after his arrest. In view of this, all the allegations levelled by Mohammed Mustafa are false and baseless.

718. By letter dated 19 August 2003, the Government responded to a letter sent on 19 November 1999 concerning **Mohammad Ashraf Bhat** and **Shamima Bano** (E/CN.4/2000/9, para. 492). The Government reported that detailed investigations were conducted into the allegation which showed that neither person was arrested or

tortured by the Special Operation Group, Budgam, and thus the allegation is totally false and baseless.

719. By letter dated 28 November 2003, the Government responded to a letter sent on 16 August 2000 concerning **Kisan-ul-Din Ahmed** (E/CN.4/2000/9, para. 549). The Government reported that inquiries conducted into the matter revealed that no such person was residing in the jurisdiction of Police Station Baramulla, nor was any such incident reported on or after 5 December 1999.

720. By letter dated 20 August 2003, the Government responded to a letter sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions on 31 August 2001.

721. Concerning **Padum Sarna** (E/CN.4/2002/76/Add.1, para. 648), the Government reported that in the early hours of 21 January 2000 at about 1.05 a.m., an armed encounter took place between the members of the United Liberation Front of Assam (ULFA) and the police at Kalangpar Railway Old Bridge, Senchowa. One ULFA activist was injured and was immediately taken to Nagaon B.P. Civil Hospital for treatment, where he later died. The death certificate indicated that the cause of death was shock and haemorrhage as a result of gunshot wounds. Further, the post-mortem report indicated that his body bore minor injuries which may have been caused by falling or to his body having been pulled by his associates. A police case was registered and on completion of the investigation a final form was submitted to the court in Nagaon. The court has since heard and disposed of the case.

722. Concerning **Khagen Barman** (ibid., para. 650), the Government reported that on the evening of 17 March 2000, acting on specific information that a group of armed militants had assembled in his house, police from Hajo Police Station arrived and the militants fled firing indiscriminately. Afterwards, police searched the area and recovered the bullet-ridden body of Khagen Barman. The post-mortem and autopsy reports indicated that his death resulted from injuries sustained before death caused by a rifle. A police case was registered and investigations carried out.

723. Concerning **Sirajul Haque** and **Nazimuddin Ahmed** (ibid., para. 651), the Government reported that on 30 April 2000, at around 5.00 p.m., on receipt of secret information, Barpeta District Police proceeded to Kamalabari village under Sarthebari Police Station to apprehend ULFA militant Dibakar Lahakar. On reaching there the police party spotted some men running in different directions. They were asked to stop but instead they opened fire. The police retaliated in self-defence and during the exchange of fire, one of the men sustained a bullet wound. The injured later identified himself as ULFA militant Nizamuddin Ahmed. He was rushed to Barpeta Civil Hospital for treatment, where he later died. The body was handed over to his family members after a post mortem. Investigations later revealed that Sirajul Haque, a harbourer of ULFA activists, was also present at the time of the encounter. His body was found near the site of the encounter. The police sent the body to Barpeta Civil Hospital. The post-mortem examinations of Nizamuddin Ahmed and Sirajul Haque indicated that the cause of death in both cases was shock and haemorrhage as a result of firearm injuries.

724. Concerning **Prasanta Bahbaria** (ibid., para. 652), the Government reported that on 11 July 2000, during the course of search operations conducted by Dibrugarh District Police at Garguri Chawdang Gaon in search of ULFA militants, militants opened fire on the police party and started running from the house of Phatik Baruah. The police retaliated and during the encounter Prasanta Bahbaria sustained a bullet wound. He was taken to hospital at Dibrugarh for treatment. Prasanta Bahbaria was among a number of individuals arrested and transmitted to judicial custody. The case is presently under investigation.

725. Concerning **Binoy Das** and **Tapan Das** (ibid., para. 653), the Government reported that investigations found that on 13 September 2000, the assistant sub-inspector and some others had assaulted Binoy and Tapan Das with sticks and kicks at Oxiguri market. The death certificate confirms that Binoy Das's death occurred due to haemorrhage and shock as a result of internal bleeding. The assistant sub-inspector was placed under suspension and departmental proceedings were initiated against him. The charges of gross negligence of duty and undisciplined conduct were confirmed. Further proceedings have been delayed because the individual and the five co-accused have fled. The case is being supervised by senior police officers of the state and all efforts are being made to bring the accused to justice.

726. Concerning **Fakon Das** (ibid., para. 654), the Government reported that investigations into the case as well as the medical report on Fakon Das indicate that his death was due to subdural haematoma due to an injury to the head. The police patrol party of Jonai Police Station is suspected of assaulting Fakon Das and causing injuries that ultimately led to his death. The delinquent policemen were identified and placed under suspension after a preliminary inquiry. Departmental proceedings have been initiated against them. The proceedings are still under way, as the involvement of the accused has not yet been fully established. The matter is pending in the Session Court in Dhemaji.

Observations

727. The Special Rapporteur notes with concern that the Government has not extended to him an invitation to visit India. He would like to recall that a request for such a mission has been made repeatedly.

Indonesia

728. By letter dated 13 August 2003, the Special Rapporteur advised the Government that he had received information on the following cases which reportedly took place in Aceh.

729. **Mawardi M. Jafar**, a 26-year-old man from Blang Riek, **Arzia Husaini**, a 25-year-old man from Kandang, and **Rusatm A. Gadeng**, a 23-year-old man from Matang Munjee, were reportedly arrested and subjected to ill-treatment in front of Simpang Keuramat Mosque, Kutamakmur Subdistrict, North Aceh, by a detachment of 100/Medan Air Defence Officers and Marines on 3 January 1999. Mawardi M. Jafar and Arzia Husaini were allegedly hit with a rifle butt on their head, back and mouth, kicked on their chest and head, and whipped. It is also believed that they were forced to lie down on the ground, whereupon they were stepped on, in particular on

their toes. Rustam A. Gadeng was reportedly kicked on his head, hit with rifle butts, in particular on his stomach and forehead, and stepped on.

730. **I. I.**, a 17-year-old farmer from Samalanga, was reportedly arrested on 3 January 1999 by police officers from Pulo Rungkom Missile Base and Mobile Brigade (Brimob) of North Aceh Police Headquarters and detained at the Komite Nasional Pemuda Indonesia (KNPI, the Indonesian National Youth Council) building for four days. It is alleged that he was beaten with a rifle butt on his back until he lost consciousness.

731. **Ayub Zainuddin** and **Abdul Amir Mayudin**, two 33-year-old men from Kuta Blang, Lhokseumawe, as well as **A. Bakar M. Yasin**, a 41-year-old man from Sigli, **Mustafa Tgk. Yahya Ismail**, a 32-year-old man from Peureulak, and **Bahrum Hanafiah**, a man from Lhokseumawe, were reportedly arrested on 3 January 1999 by a detachment of 100/Medan Air Defence Officers and a police officer from the Brimob of North Aceh Police Headquarters and taken to Pusong Reclamation Stadium. It is reported that Ayub Zainuddin was forced to take off his clothes, kicked and hit with a rifle butt. His money and watch were allegedly taken away by the officers. Abdul Amir Mayudin was reportedly submitted to similar treatment and A. Bakar M. Yasin was allegedly hit with a rifle butt. Mustafa Tgk. Yahya Ismail was reportedly dragged on the ground, hit with a rifle butt, kicked and stepped on. Bahrum Hanafiah was reportedly hit with a rifle butt.

732. **Anwar Jalil**, a 31-year-old man from Simpang Ulim, was reportedly arrested on 3 January 1999 and taken to the KNPI building and to the North Aceh Police Headquarters. It is alleged that he was burnt with a cigarette, hit with a rifle butt on the head, face and mouth, stabbed with a piece of iron on his arms and back, hit on his hands with a stick, beaten with a palm tree leaf and had his toes stepped on. As a result, he is reported to have sustained broken hands and suffer memory loss. He was reportedly denied visits from his relatives and lawyers for six days.

733. **Sulaiman (Leman Negro) Muhammad Yasin**, aged 29, from Blang Lancang, **Abdul Rajab Abdullah**, aged 28, from Kandang, **Kamaruddin Yakob**, aged 23, from Simpang Keuramat, **M. Sabil M. Jafar**, aged 22, from Meunasah Baroh, Simpang Keuramat, **Mustafa Harun**, aged 25, from Simpang Keruamat, **Zulfikli Abdurrahman**, aged 33, from Kuala Simpang, **Marsuddin Muhammad Rasyid**, aged 21, from Simpang Keruamat, **Ismail Hasan**, aged 24, from Simpang Keruamat, **Jailani Teungku Ubit**, aged 21, from Simpang Keruamat, **Ishak Orfan**, aged 35, from Samalanga, **Nasrullah Abdurrahman**, aged 23, from Simpang Keruamat, **Muhammad Ismail**, aged 19, from Simpang Keruamat, **I. Z. A.**, aged 14, from Kembang Tanjong, Pidie, **Mulyadi Muiz**, aged 33 from South Aceh, and **Muhammad Fajar Muhammad Djah**, aged 31, from Simpang Keruamat were reportedly arrested on 3 January 1999 by a detachment of officers from the 100/Medan Air Defence Officers, 001/Pulo Rungkom Missile Base and Infantry Battalion 113/Jaya Sakti. It is alleged that they were initially taken to Cot Trieng, in Cot Girek village, Muara Dua Subdistrict, and two hours later to the KNPI building, where they were allegedly kept for three days. They were reportedly denied the right to receive visits from relatives and lawyers. They were reportedly all forced to lie down on the concrete floor before being kicked and stepped on. They were reportedly beaten and hit with a rifle butt or wooden sticks on various parts of the body. Some

were said to have been burnt with cigarettes. They are believed to have been tied up while they slept.

734. **Anwar Muhammad Daud**, a 27-year-old man from Sigli, Pidie, **I. P.**, a 17-year-old from Simpang Keuramat, Kutamakmur Subdistrict, **Isamuhu Ilyas**, a 30-year-old man from Ie Tarek, and **Sulaiman Hamzah**, a 27-year-old man from Meunasah Baroh Kuta Makmur Subdistrict, were reportedly arrested on 3 January 1999 at the Simpang Keuramat crossroads, Kutamakmur Subdistrict, by a detachment of 100/Medan Air Defence Officers, Marines and Brimob officers. It is alleged that they were forced to lie down on the ground and were stepped on, hit with rifle butts and repeatedly kicked.

735. **Sofyan (Yan) Isa**, 30 years old, from Sigli, was reportedly arrested on 4 January 1999 at the Pusong Lama Mosque and taken to the KNPI building and North Aceh Police Headquarters, where he is believed to have been beaten and kicked.

736. **Ishak Muhammad**, aged 19, **M. Husein Muhammadiyah**, aged 32, and **Muhammad Jafar Nafi**, aged 39, all from Meunasah Dayah, were reportedly arrested on 20 January 1999 in their village by Airborne 100/Binjai Medan soldiers, 02/Kuta Makmur Subdistrict Military Command (Koramil) soldiers and Kopassus soldiers. It is alleged that they were hit with guns on their heads and faces, beaten on their stomachs and backs and kicked on their knees.

737. **Usman Ali**, aged 20, from Kapal Baro village, **Ibnu Abbas Abdullah**, aged 49, from Gampong Baro village, **Alamsyah Saleh**, from Central Aceh, **M. Saidi Ganto**, aged 41, from Seunebok Lhong village, **Tgk Zakaria Hasan**, aged 32, from Alue Gadeng, **Tgk. Abdurrahman Puteh**, aged 37, from Buket Rumbia village, **Ismail Sulaiman**, aged 18, from East Aceh, **Syukri Budiman**, aged 56, from Matang Pineung, **Badeli Ramli**, aged 41, from Bukit Meulinteung, **M. Husen Bunthok**, aged 47, from Matang Pineung, **Ibrahim Dahian**, aged 21, from Gaseh Sayang village, Darul Aman Subdistrict, **Abdul Hadi Ramli**, aged 26, from Gaseh Sayang village, Darul Aman Subdistrict, **Husaini Ismail**, aged 19, from Meunasah Blang, **Hamdani Gani**, from Simpang Ulim Subdistrict, **I. S.**, aged 16, from Seunebok Tuha village, Darul Aman Subdistrict, **Abdul Hadi Ramli**, aged 26, from Gaseh Sayang village, Darul Aman Subdistrict, and **Suriadi Husen**, aged 21, from Meunasah Blang were reportedly arrested in Simpang Kuala Idi Cut Seunebok Village, Darul Aman Subdistrict, on 3 February 1999 by Airborne (Linud) 100/Binjai Medan North Sumatera soldiers. It is alleged that they were beaten and hit with rifle butts and wooden sticks. As a result, most of them sustained serious injuries, in particular broken limbs. A number of them (Syukri Budiman, Badeli Ramli, M. Husen Bunthok, Ibrahim Dahian, Abdul Hadi Ramli, Husaini Ismail, Hamdani Gani, I. S., Abdul Hadi Ramli and Suriadi Husen) are thought to have been subsequently taken to Idi Cut Polsek and the East Aceh Police Station (Polres).

738. **T. Akbaruddin T. Ahmad Is**, a 21-year-old man from Blang Relu village, was reportedly arrested on 23 April 1999 and taken to 02/Kuta Makmur Koramil where he was allegedly detained for five days. It is reported that he was hit with a gun butt on his chest, and his head was kicked and punched.

739. **Muhammad Dinar**, a 25-year-old student from Ladang Kasik Putih village, Samadua Subdistrict, **Rusdi Elsutari**, a student from Pulo Ie, and **Gunawan Syam**, a 24-year-old student from South Kluet, were reportedly arrested on 27 April 1999 and taken to South Aceh Police Headquarters (Mapolres). Muhammad Dinar was reportedly severely hit on his head and ears. Rusdi Elsutari was allegedly beaten and Gunawan Syam was reportedly hit on his head.

740. **Muchratul Hakim Ismail**, aged 26, from Keude Village Idi Cut, **M. Yusuf Muhammad**, aged 21, from Tualang Cut, **M. Zubir Abu Bakar**, aged 20, from Alur Sentang, **Abdul Raja Abdullah**, aged 20, from Alur Sentang, **M. Yusuf Usman**, aged 18, from Alur Sentang, **Hanafiah Ibrahim**, aged 20, from Alur Sentang, **M. Yusuf Amin**, aged 22, from Raja Tuha, **M. Yusuf Ismail**, aged 24, from Gelanggang Marak, **Baijaqi Abdullah**, aged 20, from Gelanggang Marak, **Adisyah Putra**, aged 21, from Gelanggang Marak, **Rusli Usman**, aged 21, from Gelanggang Marak, **M. Amin Abdul Muthalib**, aged 25, from Gelanggang Marak, **M. Ali Yusuf**, aged 18, from Gelanggang Marak, **Yusrizal Adam**, aged 20, from Gelanggang Marak, **Harun Syarifuddin**, aged 26, from Raja Tuha, and **Nudin M. Adami**, aged 21, from Raja Tuha were reportedly taken to the base of Yonif (Infantry Battalion) 111/Tualang Cut on 11 June 1999. While in detention, they were allegedly beaten and hit with rifle butts and, as a result, had serious injuries and haematomas. They are believed to have been transferred to Malpores, East Aceh, two weeks later.

741. **Hamdani Hasan**, a 22-year-old man from Cut Neuheun, was reportedly arrested on 25 June 1999 at Langsa Hospital by members of the Lhokseumawe District Military Command (KODIM). It is alleged that his leg was wounded with a knife and that his fingernails were pulled out with pliers.

742. **Syafrizal Id**, from Ujung Pasir, was reportedly arrested on 14 July 1999 and taken to the Kuala Batee Sector Police Base. He is alleged to have been repeatedly beaten and deprived of food and water for a prolonged period. He was reportedly not allowed to be visited by his relatives and lawyer during the first 10 days of detention.

743. **Aswandi Wahab**, a 25-year-old man from Paya Demam village, was reportedly arrested on 15 July 1999 and taken to Mapolres, South Aceh, by members of the Petugas Penindak Rusuh Massa (PPRM), which is said to be the riot control police unit. He is believed to have been interrogated after having been stripped naked, hit on the face, and deprived of food and water for 24 hours.

744. **Muslim Usman**, a 28-year-old man from Blang Ujok, was reportedly arrested on 15 July 1999 and taken to Mapolres, South Aceh. It is alleged that he was stripped naked, repeatedly slapped and beaten while in detention and deprived of food and water for 24 hours.

745. **M. Ali Zainun**, a 28-year-old man from Pidie, Padang Tiji, was reportedly arrested on 24 July 1999 in front of the Reubee Delima Subdistrict by soldiers of the Subdistrict Military Command Post (KORAMIL). He is believed to have been hit on the face and mouth with a rifle butt, forced to run and shot at.

746. **Umar Ali**, a 44-year-old man from Sbn Benteng, was reportedly arrested on 5 August 1999 in Pantan Rayeuk village and subsequently taken to Afdelin II, Julok,

by members of the Army Strategy Command-328 (KOSTRAD). According to the information received, he was handcuffed and repeatedly beaten while being interrogated. He is reported to have been denied visits by his relatives and lawyer while in detention.

747. **Samsul Kabir**, a 37-year-old man from Tangse, was reportedly arrested on 8 August 1999 in Mane village, Geumpang Subdistrict, and taken to the PPRM base in the Sector Police Office of Geumpang Subdistrict, where he was allegedly detained for five days before being transferred to the Pidie Police Station, where he was held for 27 days. He is reported to have been shot at on three occasions. It is also alleged that he was blindfolded, handcuffed and stripped naked and that his chest was stepped on. He was reportedly beaten with a piece of wood and an electric cable on the head and face and burnt with cigarettes. He is also alleged to have been deprived of food and water for five days. During his detention, he was reportedly not allowed to be visited by his relatives and lawyer.

748. **Iskandar Amin**, a 43-year-old man from Paya village, Trieng Gadeng, Pidie Subdistrict, was reportedly arrested in Trieng Gadeng market on 9 August 1999 and subsequently taken to Trieng Gadeng Subdistrict Sector Police Station and then to the Pidie Police Station. He is reported to have been severely beaten, kicked and hit with rifle butts for hours and bitten by a police dog. It is alleged that he was not allowed visits by his relatives and lawyer for six days.

749. **Nurdin Yassin**, a 39-year-old man from Pulau Blang Keuda village, Idi Rayeuk Subdistrict, was reportedly arrested in Teungku Ahmad Dewi School of Koranic Studies, Darul Aman Subdistrict, on 29 August 1999 by Kopassus soldiers and subsequently taken to the base of Infantry Battalion 111, Kuala Simpang Subdistrict. He is believed to have been kicked and hit with gun butts and machetes. He was allegedly accused of being a member of the Free Aceh Movement (GAM).

750. **Hasan Rusli**, a 30-year-old man, was reportedly arrested by the police on 4 September 1999 and taken to Banda Sakti Mapolsek, Lhokseumawe. It is reported that he was detained because he failed to show his identity card to the police. He was reportedly beaten with a beam and forced to eat ants and drink urine. Visits from his relatives and lawyer were reportedly not allowed during the first two days of detention.

751. **Muhammad Khalil Usman**, a 20-year-old man from Seunebok Drin village, was reportedly arrested on 10 September 1999 in his village by officers of the 02/Kuta Makmur Military Headquarters and 100/Bijai soldiers. It is alleged that he was hit on the head and chest, kicked in the eyes and stepped on.

752. **Mustafa Rudin**, aged 30, from Jambo Manyang, **Anis Mar**, aged 21, from Pucuk Krueng, **Puleh Kamaruzzaman**, aged 27, from Mata Ie, **Manek Sulaiman K**, aged 28, from Ladang Teungoh, **Patik Amir Husein**, aged 33, from Pucuk Krueng, **Sukiman Amin**, aged 35, from Pucuk Krueng, **Sabang Suryadi**, aged 22, from Ladang Tuha, **Abubakar Malem**, aged 39, from Sawang, **Sijan Herman**, aged 19, from Mata Ie, **Muslim Jamin**, aged 34, from Ladang Tuha, **Abbas Basrus**, aged 32, from Trumon, **Kasem T. Bakrie Latief**, aged 48, from Mata Ie, **Benu Ajib**, aged 43, from Mata Ie, **Wadi Samsuardi**, aged 23, from Mata Ie, **Samsuar Saiful**, aged 29,

from Mata Ie, and **R. A. D.**, aged 17, from Ladang Tuha were reportedly taken to South Aceh Police Headquarters on 11 September 1999. They were allegedly beaten and hit with wooden sticks. It is also alleged that some were shot at or stabbed with a bayonet. Abubakar Malem was reportedly killed.

753. **Ali Hasanuddin Kasah**, a 26-year-old man from Paru Keude, Pidie, was reportedly arrested on 16 September 1999 by 16 agents from Central Aceh District Military Command (KODIM). He is reported to have been hit with guns and wounded with a traditional knife called an *arit*, forced to lie down and had his chest stepped on. It is also alleged that he was forced to run away and then shot at in the back and chest.

754. **Muhammad Ishak**, a 22-year-old man from Meunasah Dayah Simpang Kramat, was reportedly arrested on 28 September 1999 by Brimob officers and taken to South Aceh Malpores. It is alleged that he was forced to eat rat carrion, and beaten with a rifle butt.

755. **Hasyim Thaleb**, a 30-year-old man from Bukit Bata, Simpang Ulim, was reportedly arrested on 5 October 1999 in his village by the police. He is reported to have been hit with a rifle butt and kicked on the chest and shinbone.

756. **M. Isa Ali Basyah**, a 19-year-old man from Matang Pelawi, Peureulak, was reportedly arrested by the police on 6 October 1999 and taken to East Aceh Polres. It is alleged that he was stripped naked, stepped on and beaten.

757. **Abdussalam Ahmad**, aged 37, from Paya Teungoh, **Saiful Bahri M. Nurdin Ismail**, aged 32, from Kandang, **Muhammad Yusuf M. Jamil**, aged 23, from Paya Leupah, **Bustami Matsah**, aged 39, from Simpang, **Marzuki Muhammad Hasen**, aged 25, from Asan Krueng, **Ibrahim M. Ali**, aged 24, from Paya Leupah, **Mansur M. Hasan**, aged 33, from Paya Leupah, and **M. Nasir M. Umar AB**, aged 33, from Paya Leupah were reportedly arrested and subjected to ill-treatment in Simpang Alue Bungkoh, Matangkuli Subdistrict, on 8 October 1999 by PPRM soldiers and taken to the PPRM base at Cut Girek village, Lhoksukon Subdistrict. They were all allegedly ordered to take off their clothes. It is alleged that they were beaten and hit with wooden sticks and that some of them were burnt with cigarettes. It is also alleged that soldiers stole the detainees' money and other belongings.

758. **Tgk. Safriadi Hamid Hasballah**, a 30-year-old man from Meunasah Hasan, Samalanga District, was reportedly arrested in Meunasah Hasan on 12 October 1999 and detained in the KORAMIL Samalanga base. He is believed to have been beaten with rifle butts on his head and stomach.

759. **Banta Yusuf T.M. Ali**, a 22-year-old man from Dayah village, and Muhammad **Yakob T.M. Ali**, a 25-year-old man from Dayati, were reportedly arrested three times between 9 and 10 July 1999 and taken to Pirsus Fruneg Pase. It is reported that they were hit with various instruments, kicked, repeatedly whipped, burnt with charcoal, and forced to swallow a lit cigarette, a whole banana and chillies. Their fingernails were reportedly pulled out and their ears and arms sliced with a bayonet.

760. **Syamsuddin Zainuddin**, a 23-year-old man from Meunasah Baroh village, was reportedly arrested on 21 October 1999 in his village by Linud (Airborne) 100/Binjai Medan soldiers. According to the information received, he was beaten on his chest and kicked on his knee.

761. **Saifuddin M. Hasyem**, a 31-year-old man from Blang Raleu village, was reportedly arrested on 7 July 1999 and taken to 02/Kuta Makmur Kormail for one hour. It is alleged that he was kicked and punched in the head and stomach.

762. **Adi Yulianda M. Ali, Safriadi M. Arsyad and Rusli Masrizal**, three young men from Meudang Ara, were reportedly arrested on 28 October 1999 in Blang Pidie Subdistrict by Bawah Kendali Operasi (BKO, Controlled Operations) troops and taken to Tentara Nasional Indonesia, the Indonesia National Military hostel in Blang Pidie Subdistrict. Adi Yulianda M. Ali was reportedly stripped naked, stepped on and burned on the cheek. Safriadi M. Arsyad and Rusli Masrizal were reportedly stepped on, punched and burned with a cigarette. The three of them were allegedly taken to Blang Pidie Puskesmas (the People's Health Centre) for treatment upon their release.

763. **Ahmad Fadli Zainun YS**, a 23-year-old man from Ladang village, **Rizal Sabri Bahrnun**, a 39-year-old man from Bireun, and **M. Dinar Umikalsum Amir**, a 26-year-old man from Ladang village were reportedly arrested on 15 November 1999 at the refugee camp of Masjid Al Hidayah, Ujung Pulo Rayeuk, Bakongan District. **Haikal M. Yacob**, a 29-year-old man from Lamteurnen Barat, **Razikin Fatimah Zainun**, a 19-year-old man from Suak Bakung Kluet Selatan, and **Zairi Karnairi Kamaluddin**, a 20-year-old man from Apha village, Labuhan Haji, were reportedly arrested at the same place on 18 November 1999. All were allegedly taken on 18 November 1999 to a base located next to Makoramil by soldiers of KORAMIL Bakongan. Ahmad Fadli Zainun YS was reportedly stripped naked, hit on the head and mouth, kicked on the chest and shoulders, had his back stepped on, slapped, forced to do 50 push-ups, to stand on one foot and to lie down with his hands tied behind his back for one hour and a half, and threatened. Rizal Sabri Bahrnun was reportedly threatened with death, kicked on the buttocks, chest, groin and head, hit on the stomach and mouth, stripped naked and forced to do 50 push-ups. M. Dinar Umikalsum Amir was allegedly subjected to similar treatment. It is reported that he was also threatened with death, that he was hit on the head, face and chest, kicked on the chest and head, had his ankles stepped on and photographed with a GAM flag as background. Haikal M. Yacob was reportedly stripped naked, hit with a rifle butt on the chest and face, kicked all over his body for one hour, forced to eat spicy hot food and threatened with. Razikin Fatimah Zainun was reportedly forced to do 50 push-ups, kicked on the stomach and face, kicked on the back, slapped on the ears, pulled by the hair and told not to report about the treatment he had received. Zairi Karnairi Kamaluddin was reportedly ordered to cry and to beat fellow detainees, was hit on the head, face and body, stripped naked, kicked on the side, had feet and hands stepped on, slapped and threatened with death. It is alleged that when a number of people from Ujung Pulo village Rayeuk asked to visit them, the authorities replied that they were not in custody.

764. **Hasbi A Rahman**, a 55-year-old man from Lhok Dalam, Idi Rayeuk Subdistrict, was reportedly arrested in Lhok Dalam by Komando Pasukan Khusus (Kopassus, the Indonesian Army Special Forces) soldiers on 7 December 1999. He is

believed to have been stripped naked and subjected to electric shocks at the Infantry Battalion 111 base, in Kuala Cut, where he was allegedly detained for three months.

765. **Tengku Abdulssalam**, a 47-year-old man from Lhok Dalam, Idi Rayeuk Subdistrict, was reportedly arrested in Lhok Dalam by Kopassus soldiers on 7 December 1999 and subsequently taken to the Idi Rayeuk Military Rayon Command (KORAMIL) base. He is believed to have been stripped naked and subjected to electric shocks.

766. By the same letter, the Special Rapporteur advised that he had received further information concerning **Ronald Ramandey** and his wife, **Amelia Kiriwhose**, whose respective cases were included in an urgent appeal sent on 2 December 2002 (see E/CN.4/2003/68/Add.1, para. 673). Ronald Ramandey was reportedly given access to lawyers after having allegedly been held in incommunicado detention in Manokwari Polres. It is reported that he was beaten by members of Brimob both before and after he was permitted access to his lawyer. On 2 January 2003 he was allegedly hit twice in the face by a police officer, as a result of which his face became swollen and he reportedly suffered a loss of hearing. It is also alleged that he did not receive adequate medical care for gunshot wounds he sustained prior to being detained. His wife was reportedly moved from Manokwari Polres to Manokwari Prison in December 2002.

767. By letter dated 4 June 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government of information received concerning the following cases.

768. **M. Hamzah A. Jalil** was reportedly tortured to death by a detachment of 100/Medan Air Defence Officers on 2 January 1999 after he allegedly participated in a demonstration at the North Aceh Regency Office. According to the information received, he was hit with a rifle butt, repeatedly kicked and stabbed with a traditional knife called a *rencong*. He reportedly sustained bruises all over his body.

769. **Muktar Pawang Id**, a 26-year-old man from Lhokseumawe, was reportedly arrested on 3 January 1999 and taken to the Komite Nasional Pemuda Indonesia (KNPI, the Indonesian National Youth Council) by a detachment 100/Medan Air Defence Officers and police officers from the Brimob of North Aceh Police Headquarters. He was reportedly kicked and beaten to death.

770. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998, 1999, 2000, 2001 and 2002, for which no responses had been received.

Urgent appeals

771. On 10 April 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Rapporteur on the independence of judges and lawyers concerning **Susyanti Kamil** (f), a 22-year-old student, **An'am Jaya** (f), a 24-year-old worker, **Sahabuddin**, a 23-year-old student, **Ansar Suherman**, a 21-year-old student, **Hariansyah**, a 22-year-old volunteer, and **Muhammad Akman**, a 24-year-old

student. They were reportedly arrested on 25 January 2003 in Sulawesi Tenggara Province. They were initially detained at Kendari Polres, where they were believed to have been beaten and kicked, including on their genitals, and to have had objects thrown at them. Complaints from lawyers about their ill-treatment reportedly resulted in one police officer being transferred. The six detainees were reportedly moved on 19 March 2003 to Kendari Prison, where they are also said to have been beaten. They allegedly suffered bruises on their foreheads, arms and legs. Access by the above-named persons to their lawyers was also said to have been restricted. It is alleged that they were questioned without their legal representatives being present because police claimed that they were unable to contact them, and because questioning was carried out at night. Although it is believed that they have had access to medical attention, serious concern was expressed that they may be at risk of torture or other forms of ill-treatment while in detention.

772. On 10 April 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Elias Tabuni** and **four other men** (whose names are so far unknown). They were reportedly detained by the military in the town of Wamena in Papua Province on 6 April 2003, following an attack on the Jayawijaya District Military Command (Kodim). The five detainees are reportedly being held at the Jayawijaya Kodim in Wamena. It is reported that they were beaten while in custody. In this context, and in view of the numerous reports received alleging torture and other forms of ill-treatment while in military custody, serious concern for the safety of the above-mentioned persons was expressed.

773. On 14 April 2003, the Special Rapporteur sent an urgent appeal concerning **Yapenas Murib** and **Kanius Murib**. They were detained in Napua village, approximately five km from Wamena town, in connection with the attack on Jayawijaya Kodim on 6 April in Wamena town. Yapenas Murib and Kanus Murib are believed to be held at the Jayawijaya Kodim. In view of reports alleging that those arrested in connection with the attack on the Kodim had been beaten while in custody, fears were expressed that they may be at risk of torture and other forms of ill-treatment.

774. On 6 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **M. Riza Falevi Kirani**, aged 22, **Fuadi**, aged 21, **Yudi Feriza**, aged 22, **Taurisman**, aged 20, **Jakfaruddin**, aged 23, **Fayasar**, aged 20, **Zainal Abidin**, aged 22, **Iskandar**, aged 23, **Jakiyatuddin**, aged 22, **Yusran**, aged 26, **T. Bahrum**, aged 23, and **Fakhrulzazi**, aged 22, students at IAIN Ar-Raniry University, **Mulyadi Rusydi**, a 27-year-old former student at IAIN Ar-Raniry University, **Pak Harun**, aged 48, **Muliadi**, aged 24 and **Adam**, aged 26, all internally displaced persons. They are reported to have been all arrested on 24 May 2003 in Banda Aceh, Nanggroe Aceh Darussalam (NAD) Province, by members of Brimob during a two-hour raid on a student activities centre. Since then, their whereabouts are reportedly unknown. In view of the alleged incommunicado detention of the above-mentioned persons in an unknown place, concerns were expressed for their physical and mental integrity.

775. On 25 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers concerning **Nuraini** (f), aged 29, Volunteer Coordinator of the Commission for Involuntary Disappearances and Victims of Violence in Aceh (Kontras), **Zakaria Ismail**, her 65-year-old father, and **Zulkifli**, a 50-year-old neighbour. They were reportedly arrested on 19 June 2003 at around 5 a.m. in Lueng Dama village, Pidie District, by members of the military from Delima Subdistrict Military Command (642 BKO Makoramil Delima) and police officers from Delima Police Sector (Polsek Delima), including members of the Brimob. At the time of their arrest, Nuraini and Zakaria Ismail were allegedly blindfolded and beaten and their house searched. Both are believed to have been subsequently taken to Polsek Delima. Zulkifli is alleged to have been detained at the same time. The three above-named persons are thought to be currently detained in NAD Province, where they have been denied access to their relatives and lawyers. In view of their alleged incommunicado detention, fears have been expressed that they may be at risk of torture or other forms of ill-treatment.

776. On 3 July 2003, the Special Rapporteur sent another joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders concerning **Nuraini**. On 28 June Nuraini was reportedly transferred from police detention in Pidie District to the Police Headquarters (Polda) in Banda Aceh, NAD Province. She was reportedly visited by lawyers. Concern was expressed about the situation of Nuraini's father, **Zakaria Ismail**, and a family neighbour, **Zulkifli**, who were also mentioned in the earlier urgent appeal and about whom there is no further information. Information has been received with regard to **Asiah** (f), Coordinator of Kontras, **Afridal Darmi** and **Syarifa Murlina** (f), both lawyers for the Aceh Branch of the Legal Aid Association (LBH-Aceh), as well as other members of Kontras and LBH-Aceh. On 28 June 2003, seven men in plain clothes who were thought to be members of the Brimob visited the offices of LBH-Aceh on two occasions. Their inquiries about Asiah reportedly related to her role in gathering information on human rights violations from field-based volunteers working with Kontras, such as Nuraini. The men's reported interest in Afridal Darmi and Syarif Murlina may be related to the work of LBH-Aceh in providing legal representation to detainees and prisoners. Given Nuraini's alleged recent arrest and ill-treatment in detention, concern was expressed that action may be taken to arrest Asiah, Afridal Darmi and Syarif Murlina and that they may be at risk of similar treatment.

777. On 9 July 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers concerning **Gustaf Ayomi**, **John Hilipok**, **Welmus Asso** and **Elias Asso**. They were reportedly arrested on 7 July 2003 at around 3 a.m. during a pro-independence ceremony in the town of Wamena, Jayawijaya District, Papua Province, by members of the police. A police patrol arrived and tried to break up the ceremony. According to the police, they opened fire after the demonstrators attacked them. It is alleged that during this intervention, **Iyut Heselo** was killed. Welmus Asso and Elias Asso were reportedly shot and taken to the local hospital. Gustaf Ayomi and John Hilipok were reportedly taken to the Wamena Polres. It is reported that they have no access to lawyers and that their

families are too frightened to visit them. In view of the incommunicado nature of their detention, fears were expressed that they may be at risk of torture or ill-treatment.

778. On 5 August 2003, the Special Rapporteur sent an urgent appeal concerning **Dahlan bin Mappa**, aged 30, **Darman bin Sapa**, aged 24, **Baya bin Selle**, aged 20, **Burhanuddin bin Gea**, **Russak bin Manneng**, **Gea bin Adam**, **Tamrin bin Pananro**, **Odding bin Baco**, **Johan bin Mantahia**, **Sapa bin Tana**, **Sembang bin Sumbu**, **Barwis bin Muso**, **Nasir bin Matta**, **Balluto bin Cupang**, **Saktraing bin Pabahara**, **Juli bin Bahar**, **Hj. Badaria**, aged 45, and **Bece binti Baco**. They were reportedly arrested on 21 July 2003 and held in Bulukumba Polres. It is alleged that none of those detained have had access to medical treatment. In particular, it is believed that Gea bin Adam is suffering from a gunshot wound to his arm and Dahlan bin Mappa, Darman bin Sapa and Baya bin Selle are said to have sustained black eyes. The persons named above are farmers who were reportedly arrested along, with 34 other farmers, when they started cutting down rubber trees in Bonto Mangiring village, Bonto Mangiring Subdistrict, Bulukumba District, South Sulawesi Province. It is believed that the detained persons have been beaten while in custody. **Saddar bin Bahar**, **Salassa bin Tarigu**, **Siing bin Sattu** and **Sappewalli**, all farmers who sustained gunshot wounds, were reportedly detained following the same incident and are reported to be under police guard in Bulukumba hospital. It is reported that two other men, **Andi Baso Riadi** and **Andi Mappasomba**, reportedly members of the People's Education Institute (YPK), who handed themselves in to police after learning that they were wanted, are being held in Kendang Police Sector (Polsek). Serious fears were expressed concerning the life and health of the above-mentioned persons if they did not receive appropriate and prompt medical treatment. In the view of allegations according to which they were beaten by police officers, fears have been also expressed that they may continue to be subjected to torture or other forms of ill-treatment. Furthermore, the five following people are said to have died as a result of the gunshot wounds they sustained during the clash with the police: **Barra bin Badullah**, aged 41, **Campe**, aged 31, **Ansu bin Muso**, aged 25, **Raju** and **Muharram**, aged 50.

779. On 18 November 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women, concerning information about 100 women who are said to have been raped since martial law was declared in Indonesia's northernmost province of Aceh on 19 May 2003. It is reported that most of the victims were too frightened to take legal action; only 21 cases of rape or sexual harassment are said to have been reported to police. In July 2003, three soldiers in Aceh were convicted of rape and allegedly only given short jail terms by a military court. The following cases were brought to the attention of the Special Rapporteur.

780. On 16 August 2003 army special forces (TNI BKO) troops stationed at Muara Batu subdistrict, North Aceh, reportedly raided and ill-treated the villagers of Cot Seurani village. **Zuraidah Ahmad**, aged 51, was reportedly tortured and **her daughter** was sexually abused during the raid.

781. On 8 August 2003, at 9.15 a.m., TNI BKO troops stationed at the KKA Factory allegedly raided the home of **Marlina Hasan**, aged 31, in Babah Buloeh village, Sawang subdistrict, North Aceh. She was allegedly stripped of her clothes by troops and forced to walk naked through the village while other villagers watched.

She was allegedly threatened that if her husband, a guerrilla member, did not surrender, she would be killed.

782. On 27 July 2003 army troops rounded up the **villagers of Pulau Panyang and Ulee Jalan villages**, Matang GIp subdistrict, Bireuen district. Most of women were then allegedly sexually abused; many were reportedly forced to take off their clothes.

783. In July 2003, **N**, aged 16, from Buket Teukueh village, Idi Rayeuk subdistrict, East Aceh, was allegedly gang raped by eight Brimob members who were posted at Keude Trieng, Idi Rayeuk. It is said that this case was not reported to the police immediately, because her family was allegedly threatened that there would be reprisals if they reported the incident. The family decided not to report it for fear of their safety. **N**. reportedly suffers from post-traumatic stress following the incident.

784. On 23 June 2003 in Alue Lhok village, Paya Bakong subdistrict, North Aceh, **Za**, aged 35, **Af**, aged 31, **Nur**, aged 24, **Nu**, aged 21, **Sak**, aged 25, **Fat**, aged 40, **Ma**, aged 25, **Nil**, aged 18, and **Nura**, aged 30, were allegedly raped by army troops from Yonif Battalion 411/ Pandawa Salatiga. After they were raped, they were allegedly forced to say that their attackers had been guerrilla members.

785. On 21 June 2003, **Asiyah**, aged 21, from Alue Lhok village, Paya Bakong subdistrict, North Aceh, was allegedly raped by army troops from Yonif Battalion 411/ Pandawa Salatiga. She was threatened that if she told anyone she would face reprisals.

786. On 21 June 2003 **Hanisah** and **Nurlela**, both 19, from Alue Lhok village, Paya Bakong subdistrict, North Aceh were allegedly raped army troops from Yonif Battalion 411/ Pandawa Salatiga. It is reported that Nurlela's husband was beaten when he tried to defend his wife. They were threatened that if they told anyone they would face reprisals.

787. On 20 June 2003, at 6 p.m., **Saidiyah**, aged 22, from Alue Lhok village, Paya Bakong subdistrict, North Aceh, was reportedly raped by three soldiers from Yonif Battalion 411/ Pandawa Salatiga. She was reportedly threatened that if she told anyone she would face reprisals. The perpetrators were reportedly court martialled and sentenced to between three and four years' imprisonment.

788. It is reported that on 19 June 2003, at 6 pm, **Mar**, aged 20, from Lambadeuk province, Peukan Bada subdistrict, Aceh Besar, was reportedly captured by members of the Brimob and interrogated. She was allegedly forced to take off her clothes and was detained at Iskandar Muda region military base.

789. It is reported that on 18 June 2003, **S.**, aged 15, a junior high school pupil in Bireuen, Aceh Jeumpa, and her sister were captured by three members of the Brimob from North Sumatera. Her sister reportedly managed to escape, but **S.** was reportedly taken to an empty house in front of the Brimob station and raped by four Brimob members. This case was reportedly published in the national media and the perpetrators were court martialled.

790. On 8 June 2003 army troops reportedly rounded up all the **women at the Negeri Lawe Simanok primary school and the State secondary school in Beutong village**, West Aceh. The men reportedly managed to escape to the forest. The troops allegedly forced the women to remove their clothes.

791. On 3 June 2003 army troops of the Kompi D Yonif 301 Batallion Special Forces post in Lueng Putu village allegedly raped **Ain**, aged 25, and **Ms. Lai**, aged 23, two sisters from Balang Krueng Banda Baru village in Lueng Putu, Bandar Baru subdistrict, Pidie district.

792. On 2 June 2003, at 9 a.m., army troops from the Kopassus unit allegedly robbed **Rusli Hanafiah**, 40 years old, in Darul Aman village, Peusangan subdistrict, Bireuen district, and tortured **his wife**. His wife was allegedly stripped and her vagina was torn with a bayonet knife.

793. It is reported that in Lawang village, Peudada subdistrict, Bireun district, on 31 May 2003, at 11 a.m, **S.**, aged 16, was taken to the Koramil camp and raped by members of the 144 Kostrad battalion who were posted in Koramil Peudada, Bireuen.

794. On 28 Mai 2003, **Wati**, aged 28, from a village in Trumon subdistrict, South Aceh, was allegedly gang raped by 10 troops from the Ladang Rimba Koramil unit from the Simpang Tiga Pulo Paya post. She reportedly suffers from post-traumatic stress following the incident.

795. It is reported that on 26 May 2003, in a village in Sampoiniet subdistrict, West Aceh, Brimob members entered the house of **La**, aged 22, and raped her. She was reportedly shot in the stomach and taken to the public hospital at Cut Nyak Dien in Meulaboh.

796. On 23 May 2003, in a village in Peusangan subdistrict, Bireun district, four women, **El**, aged 22, **Li**, aged 22, **Ti**, aged 40, and **one other, whose name is unknown**, were allegedly stripped and sexually assaulted with a rifle by TNI troops stationed at the Peusangan post, Biruen. The women suffered damage to their genitals.

797. On 22 May 2003, in a village in Bireun, **three persons** (aged 18, 16, and 14 years old) were allegedly raped by Brimob members.

798. On 21 May 2003 in a village in Peudada subdistrict, Bireuen district, **M**, aged 13, a junior high school student, **Ro**, aged 23, and **Yu**, aged 19, were allegedly raped by Brimob members who were stationed at a temporary post in that village. They suffered damage to their genitals. These cases were reportedly documented by the Aceh branch of the National Human Rights Commission.

799. On 19 May 2003, in Djambo Keupok village, Bakongan subdistrict, East Aceh, **Kas** was allegedly raped by TNI troops from Brawijaya who were stationed at the Keude Bakongan and Seuleukat posts. Her husband was reportedly killed in front of her.

800. In May 2003, TNI troops reportedly conducted an operation at Ara Bungong village, Peudada subdistrict, Bireuen district, during which they allegedly raped **K**, aged 13, a junior high school pupil.

801. On 18 November 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning the following cases.

802. A number of persons were arrested during a TNI-POLRI operation in Ujung Pancu area, Peukan Bada subdistrict, Aceh Besar, on 18 September 2003. It is reported that at 7 a.m. **Erlinawati Zainun**, aged 30, was arrested with her children **I.A.**, 20 days old, **Y.A.**, aged 6, and **M.G.**, aged 3. **Hafriani Zainun**, aged 27, was also arrested together with her children, **S.**, aged 4, and **D.**, aged 2. Troops reportedly also arrested **Fitri Abdul Wahab**, aged 25, together with her baby, **C.P.N.**, aged 2. Troops are also said to have arrested the **wife of Tgk Muharram**, a senior member of GAM in Aceh Besar. Their whereabouts are reported to remain unknown.

803. At 9 a.m., on 6 August 2003, members of the Brimob reportedly took **Ridwan Ben M. Amin**, aged 45, **Sakdiah binti Harun**, aged 40, **Khatijah**, aged 20, **Sri Bahagiawati**, aged 18, **S.W.**, aged 16, and **Fahmi Ben Ramli**, aged 23, out of their house and tortured them in front of the community in Peunayong Market, Banda Aceh. Fahmi Ben Ramli was reportedly shot in his leg. It is reported that they were then arrested.

804. On 5 August 2003, troops at the army post at Kuta Baro subdistrict reportedly arrested **Yani Binti Ismail**, aged 20, in her house at Babah Jurong village, Kuta Baro subdistrict, Greater Aceh. She was reportedly still detained in mid-August 2003, and the troops had allegedly threatened to shoot her unless her husband, a GAM soldier, surrendered.

Observations

805. The Special Rapporteur notes with concern that the Government has not extended to him an invitation to visit Indonesia. He would like to recall that requests for such a mission have been repeatedly made.

Iran (Islamic Republic of)

806. By letter dated 15 July 2003, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information concerning the death, on 11 July 2003, of journalist **Zahra Kazemi** (f) who had apparently suffered a stroke while in custody a few days earlier. The 54-year-old journalist was reportedly arrested on 23 June, while taking photos on the northern outskirts of Tehran on her way to Turkmenistan for a journalism assignment. Her relatives reportedly urged the Government, without success, to allow a foreign doctor to examine her. Iranian officials allegedly said that Ms. Kazemi began to feel ill while under interrogation on 26 June and was immediately taken to Baghiatollah Azam hospital, where she suffered a stroke.

807. By letter dated 21 July 2003, the Special Rapporteur advised the Government that he had received information on the following cases: **Ehsan Mohammadi, Ali Sayyadi, Hessam Biabani, Mohammad Khezri, Sassan Rahmani, Zahra Nazari, Mohsen Zari, Roya Kaghazi, Ali Movahhed, Sara Eghbali, Nasrin Barghi, Ali Akbari, Majid Zohouri, Nazanin Hejazi, Saba Monjeh, Asghar Rahimi, Shohreh Sanai, Saeed Akrami, Nasrin Najmi, Hassan Zeidan, Arash Keikhosravi, Behnam Amini, Medhi Pour-Rahim, Soroush Azizi, Medhi Allahyari, Kiafar Jahan, Medhi Nakhli-Ahmadi, Morteza Zavvarzadegan, Peiman Aref, Farid Salavati, Azam Bahrami, Ali Farrokhi, Tirgarnejad, Mohammad-Ali Hajari, Amin Sorous, Abolfazl Hosseinzad, Roya Hassanizad, Massoud Eidizad, Siamak Bakhshi, Reza Naderi, Moslem Faveilzadeh, Massoud Shafii, Alireza Ruygar, Soussan Khodaparast, Quassem Moghaddam, Ali Pourhamdeh, Diba Naderi, Hassan Langeh, Sirous Ashkani, Morteza Talabzad and Youness Akriali.** They were among the persons reportedly detained during the widespread clashes between anti-Government demonstrators, most of them students, and security forces that took place on 7 and 8 December 2002. It is alleged that security forces resorted to disproportionate use of force against the demonstrators in several locations of the country. Chains, truncheons, knives and clubs were reportedly used by the security forces to beat demonstrators. In Shiraz, during the morning of 7 December, the Revolutionary Guards reportedly opened fire on students gathered in downtown Falakeh Setad, in order to disperse the demonstration. At the university in Teheran on 7 December, members of the Special Anti-Riot Unit, the paramilitary group Bassij, Intelligence Ministry agents and Ansar-e Hezbollah forces reportedly beat student demonstrators. The following day, when a demonstration of approximately 30,000 protestors allegedly degenerated into violent clashes, anti-riot guards reportedly used tear gas and fired weapons to disperse the crowd, whilst agents within the crowd allegedly beat demonstrators with clubs.

808. By letter dated 29 July 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following cases:

809. **Mohsen Rostami**, a 32-year-old man from the Narmak district of Teheran, was reportedly arrested in Iranshahr and detained at an unknown location. He allegedly died on 17 November 2002, shortly after his release. It is believed that he had been subjected to torture and given a lethal injection by agents from the Iranian Ministry of Intelligence and Security (MOIS). His family reportedly travelled to Iranshahr a few days before his death in order to look for him and found him severely injured in a deserted street. It is believed that signs of severe torture were evident on his head, face, feet and arms. Mohsen Rostami allegedly told his relatives that he had received a lethal injection. An autopsy report from the coroner's office reportedly confirmed that the cause of death was a poisonous injection that resulted in fatal damage to the liver. It is alleged that members of his family have been threatened by MOIS in order to prevent them from speaking publicly about the case.

810. **Habibulla Tanhaiyan**, aged 41, was reportedly arrested on 11 December 2002 in Sanandaj. He is believed to have been subjected to severe ill-treatment during his detention. He was reportedly executed on 15 December 2002 and his corpse was handed over to his family four days later. It is reported that his body bore marks of torture.

811. By letter dated 17 September 2003, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur advised the Government that he had received further information on **Reza Ameri Nassab** and **Arash Hashemi**, leaders of the student organization Daftar-e Tahkim-e Vahdat (Organization for the Consolidation of Unity -OCU). They were reportedly arrested on 9 July 2003. A joint urgent appeal was sent with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 14 July 2003. On 29 July 2003, Reza Ameri Nassab's parents reportedly requested a meeting with the Chief Prosecutor in order to seek the release of their son, and during the course of the meeting they were told that the crimes he had committed could be subject to a death sentence. At that time, his place of detention was unknown. Arash Hashemi was reportedly released 48 hours after his arrest.

812. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998, 2000, 2001 and 2002 for which no response had been received.

Urgent appeals

813. On 13 January 2003, the Special Rapporteur sent an urgent appeal, concerning **Reza Nazaarit**, aged 22, **Mohamaad Safaavi**, aged 22, **Mehdi Boyeri**, aged 23, and **Hoseyn Amiri**, aged 23. A Revolutionary Court in Shiraz reportedly convicted the men on charges of an "armed uprising against the Islamic regime" and theft, and sentenced them to amputation of their right hand and left foot.

814. On 12 March 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers concerning **Abbas Abdi**, a journalist. An urgent appeal was previously sent on 13 November 2002 (E/CN.4/2003/68/Add.1, para. 698). It is feared that he may be at risk of ill-treatment as he has reportedly been put in incommunicado detention for renewed questioning. It is reported that he was previously held in incommunicado detention for an indeterminate amount of time until his transfer to an open, public section of Evin prison on or around 10 January 2003. He is reported to be suffering from severe pain in one of his feet and has made repeated requests to be examined by a doctor. In his last meeting with his family, Abbas Abdi reportedly stated that if he were removed to incommunicado detention again, he would go on hunger strike, which has increased the family's fears about his condition. It is reported that Abbas Abdi's lawyer has prepared an appeal against the sentence of eight years' imprisonment handed down in January 2003. Reports indicate, however, that his lawyer was not permitted to be present at the interrogation of his client and was not provided transcripts afterwards. In addition, an interrogator was allegedly present at their last meeting, despite repeated assertions by the lawyer that it should take place in private. Abbas Abdi's lawyer was not permitted access to his client and no information concerning his condition has been made available by Evin prison authorities.

815. On 2 April 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning **Amir Abbas Fakhravar**, also known as **Syavash**, a medical student, writer and journalist. According to information received, Amir Abbas Fakhravar was ordered to appear before the Revolutionary Court in North Tehran on 18 March 2003 to hear an

appeal against his eight-year sentence for writing a book which was reportedly critical of the Iranian state. When Amir Abbas Fakhravar appeared in court, he was reportedly not permitted to be represented by the two lawyers who had represented him on previous occasions. After an argument with the judge, he was reportedly beaten in front of judges, court officials and both his parents, before being transferred to Qasr prison. He is said to be in need of medical treatment for severe injuries sustained in court and an existing foot injury.

816. On 19 May 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning summary executions that allegedly occurred and are at risk of occurring after a riot started on 9 February 2003 in a prison in Esfahan. Two prisoners were reportedly killed and 10 others seriously injured during the riot. The rioters allegedly demanded the release of prisoners who had been arrested on drug offences and kept in solitary confinement. It is reported that since then a number of prisoners were executed although their original sentences were not death penalties. **Seyed Mahmoud Mirsafian** was reportedly sentenced to 15 years of imprisonment and a 5 million tooman fine for a drug-related offence. He was reportedly executed on 4 May 2003. Officials reportedly informed his family that his brother, **Seyed Atta Naser Mirsafian**, who is in the jail for the same offence, faced imminent execution.

817. On 17 June 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Abraham Khodabandeh** and **Jamil Bassam**, both refugees in the United Kingdom and members of the National Council of the Resistance of Iran, who were forcibly returned from Damascus on 12 June 2003. They were said to be travelling on their Convention travel document (also known as the “blue document” or “refugee passport”). Upon their arrival at Tehran airport, it is believed that they were immediately arrested and taken to Evin prison for interrogation. In view of the incommunicado nature of their detention, fears were expressed that they may be at risk of torture and other forms of ill-treatment.

818. On 20 June 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Mohsen Sazegara**, a 48-year-old journalist, and his son **Vahid Sazegara**, a 22-year-old student. Both were reportedly arrested at their home in Tehran on 15 June 2003. In view of the incommunicado nature of their detention at an unknown location, fears were expressed that they may be at risk of torture and other forms of ill-treatment.

819. On 25 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders concerning **Manuchehr Mohamaddi**, a student activist affiliated to the National Union of Students and Graduates (*Ettehadieh Melli-ye Daneshjouyan va Fareqoltahsilan-e Iran*) who was reportedly arrested on 13 July 1999. This case was included in a joint urgent appeal sent with the Special Rapporteur on extrajudicial, summary and arbitrary executions on 22 August 2002 (see E/CN.4/2003/68/Add.1, para. 694). He was reportedly removed from band or section 3 of Evin prison and his current whereabouts are unknown. He is said to have been transferred to an undisclosed location after he returned to the prison following a six-day temporary leave. It is alleged that shortly after his return to prison on 17 June 2003 he was

beaten by officials from the Revolutionary Guard, who are thought to have strongly criticized the media interviews he had given during his leave. In view of his alleged incommunicado detention at an unknown location and the allegations that he was beaten while in custody, fears were expressed that he may be at risk of torture or other forms of ill-treatment.

820. On 30 June 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Abdollah Momeni, Mehdi Shirzad, Said Noruzi Azghandi, Khaled Bayazidi, Hanif Nabavi** and at least **55 other students from Tehran University**. They were reportedly arrested between 11 and 21 June 2003 in Tehran following demonstrations in the city. It is reported that Tehran's Special Forces (*Nirou-ye Vijeh*) deployed to disperse demonstrators used excessive force to break up the demonstrations. In view of previous allegations that persons detained in similar circumstances were subjected to torture or other forms of ill-treatment, fears were expressed for the physical and mental integrity of the above-named persons.

821. On 14 July 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Asghar Mazaheri Kalahroudi**, a 67-year-old retired army officer reportedly missing since 13 June 2003. On 18 June 2003 Asghar Mazaheri Kalahroudi himself briefly telephoned home and told his wife that he had to resolve some issues, but did not inform her of his whereabouts. It is reported that on 21 June 2003, the family home was searched by the police, and on the same day, the family was informed by judicial officials that he was in detention; his whereabouts were allegedly not disclosed. In view of his alleged detention at an unknown location, fears were expressed that he may be at risk of torture or other forms of ill-treatment.

822. By letter dated 23 October 2003, the Government reported that Mazaheri Kalahroudi was temporarily detained on 14 June 2003 and his case referred to the Revolutionary Court on 16 August 2003. He was acquitted of charges within the jurisdiction of the Revolutionary Court; however, his case was referred to branch 1034 of the Public Court because of the nature of the crimes. He was acquitted on 4 September 2003, at which time he was released.

823. On 14 July 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to freedom of opinion and expression, concerning **Reza Ameri Nassab** and **Arash Hashemi**, representatives of the student organization OCU. They were reportedly arrested on 9 July 2003 after holding an open press conference at Tehran University. Since then, their whereabouts have not been disclosed. In view of their alleged incommunicado detention at an unknown location, fears were expressed that they may be at risk of torture or ill-treatment.

824. On 16 July 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning **Mohsen Sazegara**, a 48-year-old journalist who was allegedly detained along with his son, Vahid Sazegara, on 15 June 2003 in Tehran. A joint urgent appeal was sent on their behalf on 20 June 2003. Vahid Sazegara was reportedly released from Evin prison on 9 July 2003. However, his father is reportedly still in incommunicado

detention. Visits from his relatives, his lawyer and his doctor have allegedly been denied since his arrest. He is thought to have undertaken a 10-day hunger strike following his arrest and to be in poor condition. He is alleged to have had two heart operations in the last few years and to be in need of regular medication. In view of the incommunicado nature of his detention, fears were expressed that he may be at risk of torture or other forms of ill-treatment. Concern was expressed for his health if he did not receive prompt and adequate medical assistance.

825. On 22 July 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to freedom of opinion and expression concerning a number of Iranian journalists said to have been arrested. They reportedly include **Taghi Rahmani**, **Reza Alijani**, **Hoda Saber** and **Amir Teirani**, who are presumably being held by Revolutionary Guards. Their families and lawyers have had no word of them since 14 June 2003. **Ali Akrami**, of the now-closed reformist daily *Nedat Eslahat*, has not been seen by his wife since he was detained on 16 June. On 11 and 12 July, **Hossein Bastani**, **Vahid Ostad-Pour** and **Said Razavi Faghi**, all of whom are editors with the reformist daily *Yass-e No*, and **Chahram Mohamadi-Nia**, director of the weekly *Vaght (The Moment)*, were summoned before the Tehran State Prosecutor and subsequently imprisoned. Said Razavi Faghi, who is also Political Secretary of OCU, was reportedly arrested on 10 July 2003 by security agency officials while he was in front of the offices of the Association of Journalists. Since then, his whereabouts remain unknown. Mohamadi-Nia, who was accused of publishing "an impure photo and article", was reportedly incarcerated as he was unable to post bail of 100 million rials. It is also reported that Mehdi Habibi, member of the Central Committee of the Islamic Student Association of Amir Kabir University in Tehran, was detained on 11 July 2003 and that his whereabouts have not been disclosed. **Iraj Jamshidi**, editor-in-chief of the economic daily *Asia*, was arrested on 6 July 2003 with his wife **Saghi Baghernia**, the newspaper's managing editor. Ms. Baghernia was reportedly released on bail the following day while her husband was held initially at Evin prison in Tehran and then transferred to an undisclosed location on 9 July. In view of the unknown whereabouts, and the alleged incommunicado detention of Mehdi Habibi and Said Razavi Faghi, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

826. On 4 August 2003, the Special Rapporteur sent an urgent appeal concerning **Taqi Rahmani**, **Hoda Saber** and **Reza Alijani**, who were reportedly arrested on 14 June 2003, as well as **Amir Tairani**, who was reportedly arrested on 17 June 2003. The four men are reportedly in incommunicado detention. The Chairman-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 this case on 21 July 2003. In view of the alleged prolonged incommunicado detention of the above-named persons, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

827. On 20 August 2003, the Special Rapporteur sent an urgent appeal, concerning **Ebrahim Khodabandeh** and **Jamil Bassam**, members of the National Council of Resistance of Iran, who were reportedly forcibly returned from Syria on 12 June 2003 and detained by Iranian intelligence officers upon their arrival in Iran. As was mentioned in a joint urgent appeal sent with the Chairman-Rapporteur of the

Working Group on Arbitrary Detention on 17 June 2003, their whereabouts remain unconfirmed since their arrest. Serious concerns were expressed that in view of their prolonged incommunicado detention, they may be at risk of torture or other forms of ill-treatment.

828. On 4 September 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning **Mohsen Sazegara**, a journalist, for whom urgent appeals were sent on 20 June 2003 with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, and on 16 July with the Special Rapporteur on the right to freedom of opinion and expression. Mr. Sazegara was reportedly due to be released from Evin prison on 25 August 2003. It is alleged that on 1 September, the judiciary indicated that Mr. Sazegara had not been released because there were allegations against him dating from 2002. It is alleged that since his arrest he has been denied regular access to his lawyer and family. His health is reportedly poor. In view of the alleged incommunicado nature of his detention, fears were expressed that he may be at risk of torture or other forms of ill-treatment. Concern was expressed that he may not be receiving medication, which he needs for his heart condition.

829. On 23 September 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to freedom of opinion and expression concerning **Behzad Zarinpour**, assistant editor-in-chief of the newspaper *Asia* and former editor of *Abrar Eqtesadi*. He was reportedly arrested on 7 September 2003, after a search of his home by armed men in civilian clothes. It is alleged that Mr. Zarinpour's whereabouts are unknown. In view of his alleged detention at an unknown location, fears were expressed that he may be at risk of torture and other forms of ill-treatment.

830. On 29 September 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers concerning **Mehdi Said Asgari**, **Maziyar Aslani** and **Ali Khaleqi**. The first two were reportedly arrested on 9 August 2003 at their homes in Tehran by members of the Revolutionary Guard. Ali Khaleqi was reportedly arrested by members of the Revolutionary Guard on a street in Tehran on 1 September 2003. It is believed that Mehdi Said Asari and Maziyar Aslani may be detained at Evin prison, but their whereabouts have not been confirmed. It is reported that they have been denied access to their family and to legal representation. Ali Khaleqi's place of detention is reportedly also not known. Furthermore, it is alleged that all three men have been tortured while in custody. In view of their alleged detention at an unconfirmed or unknown location, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

831. On 6 October 2003, the Special Rapporteur sent an urgent appeal concerning **Reza Nazaarit**, aged 22, and **Mohammaad Safaavi**, aged 22, for whom an urgent appeal was sent on 13 January 2003. They reportedly appealed their sentence but it was upheld by the Supreme Court on 8 March 2003. It is alleged that they will remain detained in Shiraz prison until their sentence is carried out, which could be at any time. Two other men, Mehdi Boyeri, aged 23, and Hoseyn Amiri, aged 23, who were

allegedly arrested and convicted in the same circumstances, have reportedly been released on bail.

832. On 29 October 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Dariush Zahedi**, a 37-year-old Iranian-American academic. It is reported that in early July 2003 he was arrested while attending a meeting at his brother's office in Tehran. Dariush Zahedi was allegedly sent to a section of Evin prison which is reportedly controlled by the Ministry of intelligence, where he was allegedly held in solitary confinement. His family, who has allegedly been allowed to visit him briefly twice and always in the presence of a guard, is believed to have received no information as to the legal status of his case and his condition in prison. It is also reported that he has no lawyer. Fears were expressed that he may be at risk of torture or other forms of ill-treatment.

833. On 20 November 2003, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders concerning **Ahmed Batebi**, a student activist. During an approved period of leave from prison, on 8 November 2003 he was allegedly reported missing after he allegedly took part in an *iftar* at Tehran University. Ahmed Batebi had reportedly been on leave from prison for medical reasons since 20 October 2003, and his leave was reportedly due to expire on 10 November 2003. On 17 November 2003, when his father reportedly visited the Chief Prosecutor of Tehran to inquire about his son's whereabouts, he was allegedly informed that Ahmed Batebi had been sent back to prison. The place of his detention has reportedly not been disclosed. Concern was expressed that Ahmed Batebi may have been targeted because of his meeting with the Special Rapporteur on the right to freedom of opinion and expression, who visited Iran on a fact-finding mission from 4 to 10 November 2003. In view of his alleged detention at an unknown location, fears were expressed that he may be at risk of torture or other forms of ill-treatment.

834. On 24 November 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on violence against women concerning a report in the Tehran newspaper *Kayhan* on 15 November 2003. It was stated that **seven women**, about whom no further details were provided, were each sentenced to 50 lashes by a general court in Shiraz, for allegedly showing disrespect (in Persian, *hormat shekani*) to the holy month of Ramadan. It was reported that following their arrest, they allegedly confessed.

Israel

835. By letter dated 21 July 2003, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he had received information concerning the situation of female prisoners in Neve Tirza prison in Ramle. A group of female prisoners was reportedly attacked when they refused to stand up for roll-call in the prison. It is reported that tear gas was sprayed into small and crowded cells and many of the women prisoners were injured. One prisoner, **Arij Ataf Sbahi Shahabri**, was reportedly thrown to the floor and beaten on the back to the extent that she could not walk properly afterwards. Another prisoner,

Kahara Elsa'adi, also could not walk and she reportedly suffered a broken arm and a swollen neck. The conditions under which the women prisoners are being held are reportedly below the minimum standards. Specifically, the following were reported: sleeping on the floor, unjustified isolation in harsh conditions, extreme crowding, denial of family visits, preventing minors from exercising their right to study and take examinations, improper medical care, strip searches violating the dignity of the prisoners, food of poor quality, and lack of toilets in the prison yard. The Special Rapporteurs already intervened in connection with the conditions of detention in Neve Tirza prison by sending three joint urgent appeals dated 8 February 2002, to which the Government responded by letter dated 14 February 2002 (see E/CN.4/2003/68/Add.1, paras. 739-740), 26 September and 16 October 2001 (see E/CN.4/2002/76/Add.1, paras. 814 and 815).

836. By letter dated 24 July 2003, sent jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur advised the Government that he had received information concerning the detention of several individuals who are reportedly being held at the Russian Compound Detention Centre (RCDC) in Jerusalem.

837. **Yasser Ali Abu Dia** was reportedly arrested on 9 June 2003 and held in incommunicado detention until 3 July 2003. It is reported that after his arrest Mr. Abu Dia was held at a series of locations, firstly in the Etzion Camp for three days, from which he was transferred to the General Security Services (GSS) Interrogation Unit at the RCDC, then to the Shikma Detention Centre, Ashkelon, and then returned to the RCDC. It is alleged that during that period he did not have access to a lawyer as an Order Prohibiting Meeting with Counsel had been in place and that a petition to the High Court of Justice for its removal had been rejected on 22 June 2003. It is reported that Mr. Abu Dia stated in a sworn affidavit that during his period of detention, he was held in solitary confinement for eight days and during his interrogation he was tied to a chair for seven consecutive days between 7 a.m. and 4 p.m. It is alleged that he received threats concerning the demolition of his house and the arrest of family members unless he confessed. It is reported that he is still being held in the RCDC.

838. **Bassam Sharawi** was reportedly arrested on 10 June 2003 and taken to the Etzion Camp before being transferred to the GSS Interrogation Unit in RCDC, where he is still reportedly being held. It is alleged that he was denied access to a lawyer until 23 June 2003 by an Order Prohibiting Meeting with Counsel and that an appeal to have it removed had been rejected by the High Court of Justice on 22 June 2003. It is reported that on 23 June 2003, he stated in a sworn affidavit that he was beaten and kicked during his arrest, which resulted in swelling on the left side of his chest and severe headaches and dizziness, and that he had been forced to eat dirt and was not permitted to wash his mouth until he reached the Etzion Camp 10 hours later. He also stated that during his detention he had been held in isolation for six days and that during his interrogation he had been tied to a chair for nine consecutive days, during four of which he was not permitted to sleep for than two hours.

839. **Yunes Abu-Sneineh** was reportedly arrested on 11 June 2003 and taken to the Etzion Camp and then transferred to the GSS Interrogation Unit at RCDC, where he is still being held. It is alleged that Mr. Abu-Sneineh was denied access to his lawyer until 29 June 2003 due to an Order Prohibiting Meeting with Counsel. It is

reported that a petition to remove the order was rejected by the High Court of Justice on 22 June 2003. It is also reported that Mr. Abu-Sneineh stated in a sworn affidavit on 29 June 2003 that during his detention he was held in solitary confinement for 10 days and that during his interrogation he had been tied to a chair for three consecutive days and not permitted to sleep for more than two hours per day. It is further alleged that during his interrogation he was given, upon his request, medication for rheumatism which caused dizziness, thirst and pain in the stomach, and as a result he was taken to the detention centre's medical clinic.

840. By letter dated 17 September 2003, the Special Rapporteur advised the Government that he had received information concerning the following cases.

841. **Ghassan Muhammad Sulayman Jarrar**, aged 42, director of sales in a commercial company and a former administrative detainee, was reportedly arrested at his house in Ramallah at 11 a.m. on 4 April 2002. Twelve hours after his arrest, he was reportedly handcuffed, blindfolded and beaten with a club, in particular on the left leg. He was allegedly subjected to similar beatings several times while in detention. On one occasion, he was reportedly simultaneously strangled with an old sheet and kicked all over the body, in particular on the chest and the kidney area. As a result, he allegedly lost consciousness, but the soldiers allegedly kept hitting him. He is also believed to have been threatened with a loaded gun. It is reported that he was subsequently taken to Ofer military camp near Beitunia.

842. **Hassan Twefik Ruagba**, a 34-year-old resident of Rujabi village, near Nablus, was reportedly arrested by Israeli Defence Forces (IDF) soldiers at his home on 5 December 2002. The soldiers are alleged to have pointed a gun at his 7-year-old son, threatening him with death. It is reported that when he was arrested, he was blindfolded, handcuffed and beaten. He was reportedly taken to the Hawara military camp, where he is believed to have been kept in a cell for four days before being transferred to the GSS interrogation unit at the Petah Tikva Detention Centre, where he allegedly remained for two hours. It is reported that he was subsequently held for 90 days at an undisclosed place of detention. For the first 16 days of his detention, he was reportedly kept in a 2.5 m x 1 m cell. He is also alleged to have been interrogated for 20 hours a day for five consecutive days, during which he was reportedly not allowed to sleep and was made to sit on a diagonal chair with his hands and feet tightly bound. It is also alleged that he was subjected to beatings during interrogation sessions. As a result of the allegedly unsanitary conditions in the place of detention, he is said to have developed scabies and a skin infection. He was reportedly brought to the GSS interrogation unit at the Kishon Detention Centre on 5 March 2003. There, he was allegedly held in solitary confinement.

843. **Bashar Marwan Fretah**, from Nablus, was reportedly arrested on 22 February 2003 and taken to the GSS Interrogation Unit at the Skima Detention Centre in Ashkelon. It is alleged that on 27 March 2003, a military court ordered that his detention be prolonged for a further 15 days. His lawyer is believed to have been barred from visiting him until 9 April 2003. An Order Prohibiting Meeting with Counsel, valid until 31 March 2003, was reportedly issued against him. A request from the lawyer that this order be lifted was allegedly denied by the High Court of Justice. His incommunicado detention is said to have subsequently been extended until 7 April 2003. On 10 April 2003 this extension was allegedly extended for a

further 15 days. He was reportedly held in a small, windowless cell with nine other detainees. They were all reportedly forced to sleep on mattresses on the floor and were required to eat their meals in the cell. It is also said that the toilets were close to the cell and that there was an unbearable smell coming from them. He is believed to have been denied a daily walk and not to have been allowed outdoors for at least two weeks. It is alleged that on 8 April 2003, he and other detainees went on a hunger strike to demand that their detention conditions be improved.

844. **Mohammed Yusuf Ashak Burkan**, a resident of Hebron, was reportedly arrested on 27 March 2003 and held at Etzion Detention Centre. He was later transferred to the GSS Interrogation Unit at RCDC. Following his arrest, he reportedly did not meet with counsel for 52 days, due to the issuing of several Orders Prohibiting Meeting with Counsel. It is reported that when his lawyer eventually met his lawyer on 18 May 2003, he gave the lawyer a sworn affidavit claiming that he had been beaten several times during his interrogation, that he was reportedly shackled to a chair by his hands and legs for three consecutive days and that he was only permitted to sleep for a few hours, still shackled. He also reported that several times he was forced to stand for over an hour with his hands and legs manacled. He allegedly continues to be detained at the RCDC.

845. **Iman Shukri Abdul Rahman Jamjum**, a student from Hebron, was reportedly arrested on 4 April 2003 and has reportedly been held at the GSS Interrogation Unit at the Shikma Detention Centre in Ashkelon, where he is believed to have been in isolation for 22 days, without access to legal counsel. On 7 April 2003, his detention was reportedly extended by 30 days. It is reported that he was not represented by legal council at the hearing. An Order Prohibiting Meeting with Counsel, valid through 14 April 2003, was reportedly issued on 9 April 2003, after his mother allegedly retained a lawyer. The Order is said to have been subsequently extended to 17 April. A petition to lift the Order was allegedly filed by his lawyer with the High Court of Justice, but it was rejected. The Order Prohibiting Meeting with Counsel is thought to have again been extended through 24 April 2003. He is believed to have been able to meet with his lawyer for the first time on 28 April 2003. In a sworn affidavit, he reportedly described the conditions of his detention. He is believed to share a windowless cell with nine other detainees; there are not enough mattresses for all of them, and the smell in the cell, where the detainees are forced to take their meals, is terrible. It is reported that he is not allowed a daily walk outdoors.

846. **Dr. Fadel Abu Hain** and 19 members of his family were reportedly arrested on 1 May 2003 in al-Shojaeya neighbourhood, Gaza. He is reported to have been interrogated for more than two weeks, during which he is believed to have been subjected to the so called *Shabeh* treatment, which consists of a combination of techniques over a prolonged period, entailing sensory isolation, sleep deprivation and infliction of pain.

847. Concerning **Ramle** prison, it is reported that prisoners started a hunger strike on 17 April 2003 to demand better detention conditions. It is alleged that prisoners are deprived of basic hygiene, including soap, shaving cream and toothpaste. It is also reported that food sent by their relatives is banned and that prisoners have only access to the food provided by the prison, which is believed to be of an appalling quality. Sick prisoners in Ramle are reportedly denied medical attention.

848. Concerning conditions of detention in the military police centre based in **Gush Etzion**, numerous detainees have reported that they were beaten, kicked, slapped, and confined in small, cold coffin-like cells (known as “fridges”), often while handcuffed with tight plastic handcuffs and blindfold.

849. The Special Rapporteur has been informed that approximately 2,500 Palestinians were arrested during a large-scale Israeli incursion into Palestinian residential areas between 27 February and early March 2002: Tulkarem, between 7 and 12 March 2002; Deheisheh, in Bethlehem, from 8 March 2002; Qalqiliya, from 10 March 2002; and al-Am'ari refugee camp, near Ramallah, from 12 March 2002. All male Palestinians between the ages of 15 and 45 were reportedly told to report, were questioned briefly and sorted into groups. Other men are believed to have been arrested during house-to-house searches. It is reported that hundreds were detained and taken to temporary holding stations located in military camps such as Adourayim temporary detention centre (also known as Majnuna), Shomron temporary detention centre (also known as Huwara), and Ofer temporary detention centre, or in Israeli settlements such as Kedumim, Gush Etzion, Beit El and Erez. It is alleged that the detainees were held in degrading conditions for several days before being released. Detainees were allegedly blindfolded, handcuffed tightly with plastic handcuffs, forced to squat, sit or kneel for prolonged periods, not permitted to go to the toilet and deprived of food and blankets for at least 24 hours, despite the cold temperatures at night. In particular, the Special Rapporteur has received information concerning the following cases.

850. **Awni Sa'id**, from al-Am'ari refugee camp in Ramallah, was reportedly arrested on 12 March 2002 and transferred to Ofer military camp. It is alleged that he and his co-detainees were not given food during the first day of detention and that on the second that they were given an apple, a tomato, a small loaf of bread and a yogurt to share between up to 10 individuals.

851. **Jamal 'Issa** was reportedly arrested on 8 March 2002 and released six days later without interrogation. It is reported that during the first 24 hours of his detention he was kept at the District Coordination Office (DCO) along with about 60 other Palestinian detainees. They are believed to have been kept blindfolded, and tightly and painfully handcuffed. The wrists of many detainees reportedly turned blue and many screamed with pain as they begged for them to be taken off.

852. **Muhammad 'Arafa**, aged 23, was reportedly arrested on 8 March 2002 and taken to the DCO. He and other detainees were reportedly sprayed with water despite the cold weather. It is alleged that there was no toilet and that they were taken to the street to relieve themselves, still handcuffed. Detainees are also believed to have been denied food and water for 30 hours. Muhammad 'Arafa was later reportedly transferred to Kedumim, where he is believed to have been kept for three days without being interrogated or charged, before eventually being released.

853. The Special Rapporteur was informed that during the so-called Operation Defensive Shield, which started on 29 March 2002, approximately 6,000 Palestinians from Ramallah and Jenin were arrested and kept in degrading conditions. About 2,000 of them are believed to have been held incommunicado. Detainees were reportedly forced to remain for hours or even days dressed only in their underclothes.

Detainees are said to have been held in the detention camp of Ketziot (also known as Ansar III) in the Negev, Ofer, Megiddo other detention centres.

854. On 4 April 2002, during an Israeli incursion in Jenin, male Palestinians were reportedly ordered by loudspeakers to report to the IDF. Others are said to have been arrested later. According to the information received, detainees were ordered to strip to their underwear, had their hands bound behind their backs with plastic handcuffs, and were blindfolded for up to 10 hours. They were reportedly taken to Bir al-Sa'adeh, where they are believed to have been exposed to the elements (it is alleged that the ground was muddy and the weather was cold), and forced to kneel or squat on the ground. They were reportedly not given any blankets or food, and a number of them are believed to have received little or no water. Detainees were allegedly later taken to Salem military camp where they are said to have been held in an exposed open area for up to three days. It is alleged that they were not provided with blankets and that they received only small amounts of water. Those who were kept for less than one day were allegedly not given food. It is reported that the detainees were again made to squat or kneel and ordered to keep their heads lowered. They were reportedly later taken to an interrogation point near Salem military camp. After being interrogated, they were taken back to Rumalleh village. In this connection, the Special Rapporteur has received information on the following individual cases.

855. **Ahmar Muhammad 'Abd al-Karim**, aged 25, was reportedly arrested in Jenin refugee camp on 9 April 2003. He is believed to have been used as a human shield and to have been beaten with rifle butts all over his body, and in particular on the neck, and forced to sit with his head on his knees and his hands tied behind his back. He was reportedly taken to a place near Bir al-Sa'adeh forest, near Jenin outpost, along with other detainees. Despite the cold weather, they were forced to stay in their underwear. According to the information received, when they asked for blankets, the detainees were beaten. They are believed to have been kept in this place for 10 hours, during which it is alleged that they were not given water. On the following days, he and other detainees were reportedly taken to Salem, where they were allegedly kept for 24 hours before being released.

856. **Jamal Mustafa Khueil**, a resident of Jenin refugee camp, was reportedly detained by the Israeli army on 11 April 2002 and held by the GSS at the Interrogation Unit of the Kishon detention centre (also known as Jalameh detention centre) near Haifa, until 22 April 2002. From this date, his relatives were denied any information about the place of his detention. On 24 April 2002 he was reportedly taken from the Centre by GSS investigators, allegedly without informing the Kishon detention centre where they were taking him. He was reportedly not returned to Kishon/Jalameh detention centre. A human rights organization is believed to have submitted a pre-petition to the Attorney General's office requesting information about his whereabouts. However, the Attorney General's office reportedly did not provide this information at the time, but stated that he was being investigated at a GSS facility and that investigators from the Kishon GSS Interrogation Unit were taking part in the investigation. According to the information received, on 2 May 2002, the Attorney General eventually said that Jamal Mustafa Khueil would be allowed to have access to his lawyer the following day. On 3 May 2002, he reportedly told his lawyer that had been beaten while blindfolded and handcuffed immediately after arrest. He is said to have been taken to a military court where his detention order was renewed around

30 April, and subsequently taken by the IDF, blindfolded, shackled and handcuffed, to an unknown place where he was held isolated in a dark room for seven to eight days, before being taken to Kishon/Jalameh detention centre.

857. **Maher al-Naqib**, a 25-year-old man living in 'Askar refugee camp in Nablus who is believed to be paralyzed from the waist down as a result of two gunshot wounds he received in 1994, was reportedly arrested and severely beaten by IDF soldiers on 16 April 2002. According to the information received, the soldiers entered the house where Maher al-Naqib was staying with his four sisters, his father, mother, sister-in-law and 8-month-old niece. They were reportedly all told to stand and, as Maher al-Naqib was not able to do, he was allegedly taken to another room, lifted and punched and hit with rifles on the lower legs, hands, chest and back of the head. It is also alleged that he was flipped over onto the floor and kicked all over the body and on the head for five minutes. He is reported to have been subsequently handcuffed with a plastic tie and taken by truck to Huwara detention centre. It is reported that he was pushed off the truck and fell on his back, hitting his head on the ground. During his detention, it was reported that five times, soldiers flipped over his wheelchair and made other detainees pick him up. It is also reported that on one occasion, his shirt was removed and he was put outside. He was reportedly not given any food, water or blankets and remained outside for two days. During the four days he spent in detention, he was allegedly given food only once. He was reportedly released on 19 April 2002 after having been questioned.

858. Concerning **Anan Nabih Labadeh** (whose case was included in a joint urgent appeal sent with the Chairman-Rapporteur on the Working Group on Arbitrary Detention on 18 March 2003), after a petition to the Israeli High Court he was reportedly allowed access to his lawyer on 23 March 2003. In a sworn affidavit he reportedly declared that he had been beaten and ill-treated at the Huwara military camp, near Nablus. He was allegedly left outside exposed to the rain without being allowed to go to the toilet. It is also reported that when he was moved into a cell prison guards removed his wheelchair, even though he is unable to move around without it. Guards reportedly did not give him any assistance with his personal care, and at the time of his statement he had not been allowed a change of clothes or a shower since being brought to Huwara military camp on 11 March 2003. In his statement he also reported on the conditions at the Huwara camp, where it is alleged that detainees are not given a change of clothing, there are no facilities for washing, the food is insufficient, and the cells have no ventilation and are small and crowded. He was reportedly later transferred to Ramle prison in central Israel.

859. **'Abd al-Salam 'Adwan** is believed to have been held incommunicado for 34 days before he met his lawyer on 11 April 2003. His case was included in a joint urgent appeal sent by the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on 2 April 2002 (see E/CN.4/2003/68/Add.1, para. 742). During interrogations he was reportedly beaten, deprived of sleep and made to stand for long hours in a painful position known as *shabeh* (sitting on a small chair in a painful position). He is alleged to have initially complained of severe back pain and to have been unable to hear in one ear, apparently as a result of the beatings. He reportedly received medical care and his condition is said to have stabilized.

860. **Marwan Barghouthi**, Secretary-General of Fatah and member of the Palestinian Legislative Counsel, was reportedly arrested in Ramallah on 14 April 2002 and taken to the Moskobiyyeh detention centre in Jerusalem. His case was included in a joint urgent appeal sent by the Special Rapporteur on torture, the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on 2 May 2002 (see E/CN.4/2003/68/Add.1, para. 743). His lawyer was reportedly allowed to see him on 18 April 2002 but then denied access until 15 May 2002. While in detention he was reportedly interrogated and deprived of sleep continuously for several days while subjected to *shabeh*. It is alleged that the chair had nails in the back which were just above the surface of the wood, increasing his discomfort. He is also said to have been threatened with death.

861. By letter dated 18 September 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information concerning the following cases.

862. **Muhammad Ahmad 'Amer** and his brother, **Husni Ahmad 'Amer**, were reportedly taken into custody by the IDF on 7 April 2002 in the Jurrat al-Dahab area. Husni Ahmad 'Amer was reportedly subjected to severe beatings at the time of his arrest. It is alleged that he was repeatedly hit with a baton on his shoulder and buttocks for half an hour. Despite complaining of pain and requesting for water, it is believed that he was denied both medical assistance and water and was beaten again. The two brothers were subsequently taken to Bir Sa'adeh camp, where it is reported that they were handcuffed with plastic ties, blindfolded and separated. Husni Ahmad 'Amer reportedly continued to complain of pain and ask for water. Six hours later, they were allegedly taken in an armed personnel carrier to Salem detention centre, where they are alleged to have been interrogated. In Salem, the condition of Husni Ahmad 'Amer reportedly became very serious and he was reportedly eventually taken away by an ambulance. Muhammad Ahmad 'Amer was reportedly released on the following morning but was not given any information about the whereabouts of his brother. It is reported that his family, as well as local human rights organizations, repeatedly made inquiries about Husni Ahmad 'Amer. They were allegedly told by the IDF that there was no record either of his detention or of his hospitalization. However, according to the information received, on 1 June 2002, the DCO informed his family that his body was being held at the Abu Kabir Centre for Forensic Medicine. On 6 June 2002, the Israeli High Court, acting on a petition from the family, reportedly prevented any further examination of the body. On 13 June 2002, Muhammad Ahmad 'Amer was allegedly called to Abu Kabir to identify the body. It is reported that the family has requested an independent forensic examination to determine the cause of death.

863. **Walid Mohammad Issa Amr**, a 34-year-old man from Doura, near Hebron, imprisoned since 12 December 2001, reportedly died in the Nafha desert prison in the Negev desert on 19 February 2003. It is reported that on 18 February 2003 he called his brother and told him of his worsening medical condition and that the prison administration was neglecting his requests for medical assistance.

864. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999, 2000 and 2002 for which no responses had been received.

Urgent appeals

865. On 30 January 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders concerning the following cases.

866. **'Abla Sa'adat**, a 47-year-old human rights defender, was reportedly arrested at the border crossing into Jordan on 21 January 2003, while she was on her way to Brazil for the World Social Forum as a delegate representing the Palestinian human rights organization Addameer. It is believed that she was then taken to the Beit El Military Detention Centre (near Ramallah), where she was put in an isolation cell without being questioned. All her personal belongings were allegedly taken from her. **Iman Abu Farah**, aged 24, and **Fatma Zayed**, aged 23, both fourth-year students at the Religious Studies College of al-Quds University in Abu Dis, Jerusalem, were reportedly arrested in their apartment in Um al-Sharayit (a suburb of Ramallah) on 20 January 2003 and also taken to Beit El. On the evening of 22 January 2003, 'Abla Sa'adat, Iman Abu Farah and Fatma Zayed were reportedly all served with four-month administrative detention orders. Fears were expressed concerning the well-being of these three Palestinian women, who are being detained without charge. It is reported that Beit El Military Detention Centre has no separate facilities for women detainees. Their isolation cells are reportedly small (2 m x 2.5 m) and unheated. It is alleged that female detainees have to share a toilet with male detainees and are allowed to use it only three times a day. The meals are said to be lacking in adequate nourishment. It is reported that they are prohibited from walking outside for fresh air and are not allowed a change of clothing. Abla Sa'adat was reportedly not allowed to leave her cell until her lawyer visited her two days after her arrest. Her lawyer claims she had to beg to use the toilet even though she was suffering from diarrhoea. She reportedly also suffers from low blood pressure and a slipped disc, which causes her back pain. In protest at their detention conditions, the three detainees have reportedly been on hunger strike since 23 January 2003. They are said to be refusing to take both food and water and their health is deteriorating. The lawyer who visited the detainees on 26 January reported that Iman Abu Farah was experiencing extreme dizziness and 'Abla Sa'adat was suffering from severe back and neck pain and was complaining of numbness in her hands and legs. The lawyer did not see Fatma Zayed, as she had reportedly been taken to Ofer Military Court for a judicial review to have her administrative detention confirmed. She was reportedly subsequently transferred to the Moskobiyye Interrogation Centre. In sworn affidavits, Abla Sa'adat and Iman Abu Farah reportedly described the harsh conditions of their arrest and reaffirmed that they would not end their hunger strike until they were transferred to more adequate facilities for female detainees.

867. On 28 February 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers concerning **Daoud al Dir'awi**, a 28-year-old Palestinian resident of Jerusalem and lawyer working with

Defence for Children International/Palestine Section, a human rights non-governmental organization. He was reportedly detained on the evening of 21 February 2003 in Jerusalem and then taken by Israeli soldiers to Qeshle Police Station. The following morning his wife was reportedly told that Daoud al Dir'awi had been taken away by personnel from Shin Bet (the Israeli Secret Intelligence service), that he would be detained for interrogation purposes for 12 days, that his place of detention would not be revealed, and that he would not be able to meet with a lawyer during this period. In view of his alleged incommunicado detention in an unknown place, fears were expressed that he may be at risk of torture or other cruel, inhuman or degrading treatment. Daoud al Dir'awi was the subject of an urgent action letter on 17 September 2001 to which the Government responded on 21 June 2002 (E/CN.4/2003/68/Add.1, paras. 735, 752).

868. By letter dated 10 April the Government reported that Daoud al Dir'awi had been arrested on 21 February because of his activities on behalf of the Popular Front for the Liberation of Palestine (PFLP), a terrorist organization. A six-month administrative detention order was issued against him on 3 March 2003 because he was considered to be a threat to the security of the area. Upon judicial review, on 24 March 2003, the detention order was upheld by a military court judge for Mr. Dir'awi's detention in the Ofer detention facility. The judge who carried out the review stated, among other things, that he had seen current and reliable intelligence information that demonstrated well-founded concern for the security of the area if Mr. Dir'awi were to be released at this time, as well as other information on his involvement since his release from administrative detention a year previously in current activities of the PFLP that were a danger to the security of the public and the area in general. With regard to the length of detention (six months), the court considered that it was reasonable and necessary in order to neutralize the danger Mr. Dir'awi presented and therefore would not be shortened. During the judicial review of this matter, he was represented by two lawyers of his choice.

869. On 18 March 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Anan Nabih Labadeh**, aged 30, who was arrested with his brother, Dr 'Abd al-Fatah Labadeh, by army officers on 11 March 2003 at home. It is reported that Anan Nabih Labadeh is paralyzed from the waist down and suffers from gastritis, bladder and skin problems, and is in constant need of medical care. Both brothers were allegedly pushed into an army jeep. Anan Nabih Labadeh was still in his wheelchair. The soldiers are said to have blindfolded them and tied their hands behind their backs. The soldiers allegedly beat Anan Nabih Labadeh. The brothers were reportedly taken to Huwara military camp near Nablus. It is alleged that they were made to wait four hours, still blindfolded and handcuffed. They were then separated. It is reported that while Dr 'Abd al-Fatah Labadeh was released after two days, Anan Nabih Labadeh remained in detention. Fears have been expressed that the conditions of detention in Huwara may amount to ill-treatment. Up to six detainees are said to be kept in six-square-metre cells with no light, except natural light coming from a 50 cm x 50 cm window. There is no toilet in the cell and detainees are said to have to urinate into bottles. The only source of water is said to be a small bottle, which is filled at mealtimes. Detainees are believed to have to sleep on small, thin mattresses which are often wet as the cells are very damp. There is no heating. It is reported that there are insufficient blankets. During his detention, Dr 'Abd al-Fatah Labadeh was reportedly

taken out of the cell three times, for about 10-15 minutes each. The sanitary conditions are reported to be very poor. In view of the alleged conditions of detention in Huwara, fears were expressed about the health situation of Anan Nabih Labadeh, whose wheelchair was allegedly taken away from him on 14 March.

870. By letters dated 10 April and 20 June 2003, the Government reported that Anan Nabih Labadeh had been arrested on 11 March 2003 because of his involvement in activities that threatened the security of the area. A six-month administrative detention order was issued against him on 23 March 2003 due to these activities. The order underwent a process of judicial review and the court decided that the period of administrative detention would be shortened so as to end on 26 April 2003. After that date, Mr. Labadeh's detention would become detention for the purposes of criminal investigation. Mr. Labadeh was being held in Ramle prison, a facility that is suitable for his medical needs. He was released on 24 April 2003.

871. On 20 March 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Husam Khader**, a member of the Palestinian Legislative Council, a leader of the Fateh movement and an independent member of the Palestinian Human Rights Monitoring Group Board of Trustees, who was arrested at his home in Nablus on 17 March 2003, at 4 a.m. In view of the incommunicado nature of his detention in an unknown location, fears were expressed that he may be at risk of torture and other forms of ill-treatment.

872. On 6 June 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **J. S. A. A.**, aged 15, and **H. S. Z.**, aged 14, who are believed to be held incommunicado at the Huwara military base, near Nablus. The two teenage boys were reportedly arrested on 31 May 2003 by soldiers at a checkpoint in Huwara, where they were selling refreshments to Palestinians queuing at the checkpoint. A lawyer working with the human rights organization Defence for Children International-Palestine Section (DCI-PS) is said to have requested permission to visit the boys on 4 June, but this request was denied. He was told to ask again in a week's time. It is said that the lawyer also repeatedly asked the Israeli military authorities for details of any charges against the boys., but he was not given any information. Furthermore, it is reported that the conditions at the detention centre at the Huwara military base are very poor. A lawyer who visited the centre on 5 May 2003 reported that 15 children under the age of 18 were held there, and that they were held with adults. Military authorities are said to classify it as a temporary detention facility for detainees in transit, but many have reportedly been held there for up to three months. The base reportedly started to be used as a detention facility in the spring of 2002, but for a year no lawyers were allowed to visit detainees. Since March 2003 some lawyers have reportedly been allowed to visit detainees, but they have found it difficult to obtain permits for such visits. No family visits have yet been allowed. It is alleged that cells are overcrowded and many detainees are forced to sleep on the floor as there are not enough mattresses to go round. The few mattresses and blankets which are available are believed to be dirty and bug-infested and no soap or cleaning material is provided for the detainees to wash themselves or to clean the cells, leading to the spread of skin diseases. There is no on-site doctor. It is alleged that detainees are often not allowed to go outside for days at a time and are only permitted to go to the toilet at set times,

usually three times a day. The prison diet is said to be meagre and of poor quality. In view of the incommunicado nature of their detention and the reported poor conditions in which they are being held, fears were expressed that the above-mentioned minors may be at risk of torture and other forms of ill-treatment.

873. By letter dated 7 August 2003, the Government reported that the two individuals were stopped briefly after security forces observed them trying to breach the wire fence of the Huwara checkpoint on 1 June 2003. They were free to continue on their way within the hour. The Office of the Legal Adviser for Judea and Samaria concluded that at no time were the two persons ever arrested, detained or incarcerated by the security forces. These facts have been corroborated by information received from outside sources. The Government concludes that the Special Rapporteurs were seriously misinformed in this matter and it is regrettable that the special mechanisms of the Commission on Human Rights have been abused in this manner. The fact that Israel has expended considerable resources on a thorough investigation, which turned out to be based on a groundless case, is equally unfortunate. With respect to conditions at the Shomron (Huwara) Detention Facility, Israel strives to ensure that appropriate conditions are maintained which meet international standards. To that end, Israel established a special standing committee in May 2003, whose mandate is to supervise conditions at military detention facilities and to make recommendations regarding any measures necessary in order to ensure appropriate standards. The recommendations of the committee are to be presented to the Chief of Staff.

874. On 23 July 2003, the Special Rapporteur sent an urgent appeal concerning '**Abd al-Nasser Quzmar**, a 30-year-old farmer. He was reportedly arrested by army personnel from his home in the West Bank village of Izbet Salman on 16 June 2003 and is said to have remained in detention since then without charge or trial. It is alleged that in a sworn affidavit taken on 18 July 2003 by his lawyer, he stated that while in custody he has been subjected to interrogation sessions that have lasted for up to 20 hours and that during these sessions he was subjected to physical and psychological pressure by GSS personnel. It is reported that on at least one occasion he was immobilized for several hours on a small chair fixed to the ground with his hands stretched out and tied to the bottom of the chair behind his back. He is believed to have been interrogated while in this painful position. It is also alleged that his wife and children were threatened. He is reportedly currently being held in a four-square-metre isolation cell with no windows and with poor light. He has allegedly complained to his lawyer that the quality of the food is bad and that he is only allowed to take a shower every five days. According to the information received, due to the restrictions placed on the movement of Palestinians from the West Bank, his relatives are unable to visit him in detention. In view of allegations of ill-treatment in custody, fears were expressed that he may be at risk of being subjected to torture or further ill-treatment.

875. On 9 September 2003, the Special Rapporteur sent an urgent appeal, concerning **Ahmad Talab Mustafa Barghouthi**, a 27-year-old resident of Ramallah, **Moussa Mohammad and Salem Doudin**, a 31-year-old resident of Hebron, **Mahmoud Issa**, **Moutaz Hijazi** and **Muhammad Abu Jamous**, aged 28. It is reported that Ahmad Talab Mustafa Barghouthi, detained on 15 April 2002 and sentenced to 13 life sentences, has been held in solitary confinement for the past eight months. It is reported that Moussa Mohammad Salem Doudin, detained on

20 December 1992 and sentenced to life imprisonment, has allegedly been held in solitary confinement for the last five months. It is alleged that he has not seen his father for the past seven years as a result of continuous denials of visiting permits. It is reported that both Ahmad Talab and Moussa Mohammad went on hunger strike from 29 May to 30 June 2003 in protest of their solitary confinement at Beer Sheva prison. As a result of their deteriorating health, they were reportedly moved to Ramle prison hospital, where an agreement was apparently reached with the prison administration that they would end their hunger strike upon being removed from solitary confinement. On 10 July 2003, both Ahmad Talab and Moussa Mohammad were reportedly moved to Hadarim prison, where it is believed they were again put in solitary confinement for four days, and then moved again to Ramle prison and put in a solitary confinement cell together. According to the information received, Ahmad Talab and Moussa Mohammad began an open-ended hunger strike on 11 August 2003. In the same isolation section at Ramle prison, it is said that two other detainees, Mahmoud Issa and Moutaz Hijazi, are being held together in another solitary confinement cell. Furthermore, **Muhammad Abu Jamous**, aged 28, is said to be held in Beer Sheeva prison and has reportedly been on hunger strike for 16 days, although he was taking fluids. All the above-named persons are said to be protesting against being held in solitary confinement for months. Fears were expressed concerning the continuing and prolonged detention in solitary confinement of the above-named persons and concerning their deteriorating health if they do not receive appropriate and prompt medical attention.

876. On 19 September 2003, the Special Rapporteur sent an urgent appeal concerning the following cases.

877. **Daoud Halmi Mohammed Seder**, aged 21, was reportedly arrested on 14 April 2003 at his home in Hebron and is reportedly detained in the Shikma Detention Centre. He is believed to have been previously subjected to electric shocks and received 59 stitches. It is alleged that as a result, he is suffering from a chronic skin condition on his stomach, which is said to require special medical treatment such as cleansing of the damaged skin and its exposure to sunlight. His request for medical care and to be transferred to a cell with a window has reportedly been refused. It is also alleged that the prison doctor advised him to use the butter that he receives with his food as an ointment to rub on the affected skin. As a result of the hot weather and lack of medical care, he is reportedly suffering from intense itching and blotches have appeared on his body.

878. **Louie Ibrahim Hassan Malesh** was reportedly arrested on 27 March 2003 at his home in Bethlehem, initially detained at the RCDC in Jerusalem and transferred on 20 May 2003 to the Nitzan detention centre in Ramle, where he is reported to be detained. It is alleged that he is suffering from acute pain in a left molar in his lower jaw, which causes insomnia. It is also alleged that before his arrest he was undergoing special treatment by a dentist, but his arrest put a stop to the treatment before its completion. It is reported that he has repeatedly requested medical attention from the prison administration but without success. Louie Ibrahim Hassan Malesh is also alleged to be suffering from pain in his eyes, a deterioration of his vision and violent headaches. In view of these allegations, fears were expressed for the physical and mental integrity of these two men if they do not receive prompt and appropriate medical attention.

879. On 10 November 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women concerning **Amneh Mounah**, a female detainee at Ramle prison, and six other female detainees, **'Aishah 'Abeyat, 'Umayah Dammaj, Ra'eda Jadallah, Wasfiyeh Abu 'Ajamiyeh, Samar Bader and Su'ad Ghaza**. The case of Amneh Mounah was included in previous urgent appeals sent by the Special Rapporteur on torture (E/CN.4/2003/68/Add.1, para 739 and E/CN.4/2002/76/Add.1, para 813). The Government provided information on this case by letter dated 14 February 2002 (E/CN.4/2003/68/Add.1, para. 740). Amneh Mounah was reportedly transferred to an isolation cell of Ramle prison on 25 October 2003. One hour later, she was allegedly ordered to strip in order to be searched. It is reported that she refused to do so as there were male guards in the cell. She is also reported to have refused to strip when the male guards left the room as they were standing behind the cell door. Later that day, another group of guards came to her cell, sprayed her with tear gas and forced her to strip. She allegedly received blows on the waist, back and hands. She is also believed to have been grabbed by the throat and strangled. As a result of the treatment received, she reportedly began bleeding from the mouth and started to lose consciousness. Three hours later, she was reportedly transferred to another isolation cell and given a sedative. She was allegedly charged with attacking three guards and put in isolation for seven days. She reportedly started an open-ended hunger strike on 27 October 2003 to protest against her solitary confinement. On the following day she was reportedly transferred to another isolation cell. It is alleged that she has not received medical treatment for the injuries allegedly sustained as a result of the above-mentioned beatings. It is also alleged that her health condition has deteriorated. Concern was expressed for her physical integrity if she does not receive prompt and adequate medical assistance. Forty other female detainees reportedly started a hunger strike to protest against the reported treatment of Amneh Mounah. In reprisal, the penitentiary authorities reportedly put six of them in isolation, namely 'Aishah 'Abeyat, 'Umayah Dammaj, Ra'eda Jadallah, Wasfiyeh Abu 'Ajamiyeh, Samar Bader and Su'ad Ghaza, confiscated television sets and mattresses and prohibited all 40 women from obtaining basic necessities provided in the canteen.

Follow-up to previously transmitted communications

880. By letter dated 21 October 2003, the Government provided information concerning a joint urgent appeal sent on 7 May 2002 with the Special Rapporteur on the independence of judges and lawyers concerning **three Jewish detainees** (E/CN.4/2003/68/Add.1, para. 744). The Government reported that the persons in question were members of a terrorist cell, indicted by the Jerusalem District Court for their involvement in, among other things, placing a cart containing explosives in East Jerusalem on 29 April 2002. No allegations had been made concerning ill-treatment of the detainees at any stage. On 17 September 2003, the persons in question were convicted by the Jerusalem District Court and were found guilty of attempted murder and misuse of weapons. The Court has not yet determined their sentence.

881. By letter dated 27 June 2003, the Government provided information concerning a joint letter sent on 13 September 2002 with the Special Representative of the Secretary-General on human rights defenders concerning **Mustafa Barghouti** (E/CN.4/2003/68/Add.1, para. 737). The Government reported that an extensive investigation was conducted by the Ministry of Justice, Department of Investigation

of Police Misconduct, into the allegations regarding Dr. Barghouti. It concluded that there was insufficient evidence to justify criminal proceedings against the police officers in question due to, among other things, the lack of cooperation with the investigation on the part of Dr. Barghouti and his attorney. He was entitled to submit an appeal to the State Attorney within 30 days of the receipt of the letter informing him of the decision, but no such appeal was submitted.

882. By letter dated 16 June 2003, the Government provided information concerning a joint urgent appeal sent on 2 December 2002 with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders concerning **Abed Rahman Al-Ahmar** (E/CN.4/2003/68/Add.1, para. 750). The Government reported that he is being held in administrative detention at the Ofer detention facility. The facility has a permanent medical staff, whom Mr. Al-Ahmar is entitled to approach with regard to his medical needs. The conditions of detention in the Ofer facility were recently reviewed by Israel's Supreme Court and were found to comply with the applicable standards of international humanitarian law. Israel is fully committed to guaranteeing human rights and the rule of law, including the rights of detainees. This obligation was clearly stated by the Supreme Court in its rulings regarding conditions of detention in Israeli detention centres: "Even those suspected of terrorist activity of the worst kind are entitled to conditions of detention which satisfy minimal standards of human treatment and ensure basic human necessities. Such is the duty of the commander of the area in accordance with international law, and such is his duty in accordance with the foundations of our administrative law. Such is the duty of the Israeli Government in accordance with its essential character, Jewish, democratic and fundamentally humane (HCJ 3278/02, 5591/02)." The Government reported that past judicial review and appeal hearings found that Mr. Al-Ahmar posed an imminent and significant danger to lives and threatens the security in the area. His claims to be a human rights activist were found to be a charade.

Observations

883. The Special Rapporteur notes with concern that the Government has not extended to him an invitation to visit Israel. A request for this invitation was reiterated in his letter dated 16 October 2003.

884. The Special Rapporteur considers it appropriate to draw attention to the concerns of the Human Rights Committee (CCPR/CO/78/ISR, paras. 13, 18), which stated that the use of prolonged detention without access to a lawyer or other persons from the outside world violates articles the International Covenant on Civil and Political Rights (arts. 7, 9, 10, and 14, para. 3 (b)); that interrogation techniques incompatible with article 7 of the Covenant are still reported frequently to be used; and the "necessity defence" argument, which is not recognized under the Covenant, is often invoked and used as a justification for ISA actions in the course of investigations.

885. The Special Rapporteur also notes that the Committee on the Rights of the Child (CRC/C/15/Add.195, para. 62) expressed concern that Military Orders Nos. 378 and 1500, as well as other military orders, may allow prolonged incommunicado detention of children and do not provide due process guarantees, access to legal assistance and family visits.

Italy

886. Par une lettre datée du 22 juillet 2003, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements selon lesquels **Luigi Acquaviva**, un détenu de la prison Bad'e Carros de Nuoro (Sardaigne), serait décédé en janvier 2000, quelques heures après la prise en otage d'un gardien de la prison. Bien que les responsables de l'établissement pénitencier aient indiqué qu'il s'était suicidé, une autopsie réalisée en juin 2000 par des médecins légistes nommés par le procureur aurait mis en évidence que le corps du détenu, trouvé sans vie et pendu dans sa cellule, présentait également des marques de blessures qui se seraient produites avant son décès. En novembre 2000, un autre médecin légiste nommé par le juge des enquêtes préliminaires aurait observé des blessures au cou qui confirmeraient que le détenu s'était suicidé mais aurait également confirmé que le corps présentait des coupures et des blessures. Une enquête criminelle et une enquête administrative concernant six gardiens et le directeur de la prison auraient été ouvertes.

887. Par une lettre datée du 24 septembre 2003, le gouvernement a répondu que les enquêtes sur ce cas étaient encore en cours. Le parquet du tribunal de Nuoro avait ordonné, le 15 juillet 2002, le renvoi en jugement de huit membres du corps de la police pénitentiaire, en supposant des responsabilités à des titres différents pour homicide par imprudence, omission de porter secours et coups et blessures. Les éventuelles mesures disciplinaires feront l'objet d'une analyse de la part de la Direction générale du personnel et une enquête administrative a été confiée à deux dirigeants de l'administration centrale. Des initiatives ultérieures dépendront des résultats des investigations judiciaires en cours.

Suite donnée aux plaintes signalées dans des communications précédentes

888. Par une lettre datée du 14 mars 2003, le gouvernement a fourni des renseignements supplémentaires concernant les conditions de détention dans la prison de Sassari (E/CN.4/2002/76/Add.1, par. 822) sur lesquelles le gouvernement avait déjà envoyé une communication le 16 août 2002 (E/CN.4/2003/68/Add.1, par. 762). Le gouvernement a informé que, le 21 février 2002, au cours d'un procès pénal, le juge de l'audience préliminaire auprès du tribunal de Sassari avait décidé le renvoi en jugement de neuf des accusés pour délits de violence privée, de lésions personnelles et d'abus d'autorité et avait déclaré un non-lieu à l'égard des 20 autres accusés. Par ailleurs, au cours d'un procès abrégé relatif à un procès pénal, le juge a condamné le directeur régional de l'administration pénitentiaire, la directrice de la Maison de correction de Sassari et le commandant du détachement des gardes pénitentiaires de la Maison de correction respectivement à un an et six mois de réclusion, un an de réclusion et un an et quatre mois de réclusion pour violence privée, lésions personnelles et abus d'autorité. Le commandant avait également été condamné pour coups et blessures mais acquitté pour certaines autres accusations. Le juge avait également condamné huit agents du corps de la police pénitentiaire pour les mêmes délits à des peines allant de quatre à six mois de réclusion, un agent du corps de la police pénitentiaire pour non-dénonciation de délit de la part d'un officier public à 100 euros d'amende, le médecin de garde auprès de la Maison de correction de Sassari à quatre mois de réclusion pour délit d'omission et avait acquitté les 48 autres accusés. Enfin, le gouvernement a informé que, pour toutes les peines de détention infligées, la suspension conditionnelle avait été accordée. Les sujets retenus coupables avaient également été condamnés au dédommagement des parties civiles.

Jamaica

889. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998, 2000 and 2001 for which no responses had been received.

Urgent appeals

890. On 24 December 2002, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **A. W.**, aged 16. He is reported to be held at Constant Spring Police Station without charge since 8 December 2002. He was arrested at his home in Grant's Pen, Kingston, by members of the Crime Management Unit, during an arrest and curfew operation. It is alleged that he was placed in a truck, with 33 others, at the corner of Grant's Pen Road and Shortwood Road. The men remained in the closely packed truck from 8 a.m. until 1.30 p.m. without food or water. It is believed that some of the young men were also beaten. All have now been released except **A. W.** On 9 December, police officers reportedly refused access by **A. W.**'s mother to her son. She was also told that he was "wanted" and was reportedly refused any information about the reasons for his detention. It is reported that she was later informed that **A. W.** was to be charged with murder, but after human rights representatives asked whether he had been given access to a lawyer, an inspector told the family that **A. W.** was being held on suspicion of murder and that had not been charged.

891. Police are said to have informed the family that **A. W.** would have to wait for an identification parade before being charged. Identification parades are allegedly commonly used as a means to prolong indefinite detention without charge. Two identification parades were reportedly held, on 13 and 18 December, both in the presence of a lawyer. It is said that at neither parade was **A. W.** identified. Police informed his mother that a third identification parade would be held on 19 December. This has not yet taken place. The police reportedly told the family that there was no space in the juvenile facilities for **A. W.** It is reported that he is being held at the police station in a passageway in the cell block and not in an actual cell. Fears were expressed that the conditions in which **A. W.** is held may amount to cruel, inhuman or degrading treatment or punishment.

Follow-up to previously submitted communications

892. By letter dated 7 January 2003, the Government provided information with respect to a letter sent on 2 September 2002, concerning **Richard Williams** (E/CN.4/2003/68/Add.1, para. 763). The Government reported that the allegations are factually accurate for the most part. In keeping with the obligations to citizens under the Constitution, articles 3 and 5 of the Code of Conduct for Law Enforcement Officers, and article 22 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the circumstances surrounding the death of **Richard Williams** was investigated by the Bureau of Special Investigations and the Police Public Complaints Authority. The Director of Public Prosecutions ruled on 6 May 2002 that four police personnel be charged with offences ranging from assault to murder. Warrants were prepared and executed on three of the personnel. One has deserted. The matter is before the Half Way Tree Criminal Court and a further report

will be made to the Special Rapporteur as soon as the trial is completed. The post-mortem examination of Mr. Williams' body indicated that the cause of death was due to "blunt force injuries to the head and gunshot wound to the chest".

893. The State is unable to comment on allegations made regarding Levan Linton and Angella Dick (*ibid.*, para. 763) as none of the relevant authorities (i.e. the Police Public Complaints Authority, the Bureau of Special Investigations, the Office of Professional Responsibility, or the Ombudsman), have received any such complaints. The Government informed that police personnel have started courses in human rights at the Jamaica Police Academy, and that the United Nations Code of Conduct for Law Enforcement Officers has been integrated into the national Police Rules and Regulations.

Japan

894. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a case transmitted in 2002 for which no response had been received.

Follow-up to previously transmitted communications

895. By letter dated 20 December 2002, the Government provided information concerning a letter sent on 2 September 2002.

896. Concerning **Patrick Loughlin** (E/CN.4/2003/68/Add.1, para. 770), it was true that he attacked the correctional officers of Nagoya Detention House, resulting in an injury. However, it was not true that the correctional officers beat him severely. A leather restraining belt was used twice to restrain him, on 8 August 2001 and 2 September 2001, as he became excessively excited, and the possibility of an assault against the correctional officers was reasonably high. On these occasions he was placed in a protection room—a cell with a fixed window, only a faucet and a toilet used for a short period of time for the purpose of protecting inmates who make a commotion. As there remained a possibility that he would attack the officers if he were released, restraints were used even in the protection cell, but only until he calmed down.

897. While Patrick Loughlin was detained at Nagoya Detention House, he was accommodated in a single cell. In accordance with the Japanese Prison Law and the Prison Law Enforcement Regulations, the purpose of applying solitary confinement is, among other things, to ensure secure custody of the inmate and to minimize the possibility for destruction by the inmate. The structure of the cell in which he was confined was the standard structure used for accommodating a prisoner and its conditions were sanitary with adequate light and ventilation. There was no valid claim concerning the conditions of the cell. Moreover, restraining devices are not used in a single cell, and an inmate is not locked up all day long. Accordingly, this was a lawful measure. The lights are not completely turned off at night in order to ensure visibility of the inmates' movements, but brightness is kept to a minimum. Moreover, the officers are careful not to make noise in the course of their night patrols. The meals are planned by the dietician, and the prescribed quantity of food is provided three times a day to each inmate, equally.

898. Patrick Loughlin received medical examinations on a regular basis, and in the case of the use of restraints, careful medical observations by a doctor were carried out. It was therefore untrue that Patrick Loughlin was beaten severely by correctional officers, restrained with a restraining belt which almost led to suffocation, confined to a single cell for a long time or that he suffered from sleep deprivation, dietary restrictions or a lack of proper medical attention, or that he received improper treatment.

899. Concerning **Abdul Amir Befkin** (E/CN.4/2003/68/Add.1, para. 771), it was true that he temporarily lost weight on account of his eating disorder. However, appropriate medical treatment and eating guidance were administered to Abdul Amir Befkin to deal with the vomiting caused by his eating disorder and the decrease in weight, both at Tokyo Detention House and Fuchu Prison. Currently, his weight has reached about 65 kg and he has recovered enough to work in the workshop.

900. By letter dated 28 November 2003, the Government provided information concerning a joint letter sent with the Special Rapporteur on the human rights of migrants on 13 November 2002, concerning **Ali Ahmad** (E/CN.4/2003/68/Add.1, paras. 772, 776), including a guide to the procedure of recognition of refugee status. The Government reported that, when Ali Ahmad arrived at Kansai Airport on 12 September 2001, he did not have a passport, was suspected of illegal entry and procedures for deportation were started. It was true that he was detained in the detention room of Kansai Airport from 13 to 27 September. Moreover, concerning his detention, the deportation order issued on 14 September was cancelled on 17 December and he was given a provisional release; three months later rather than the five months he claimed. In the meantime, Ahmad Ali applied for asylum on 21 September 2001. However, the Minister of Justice decided that he was not a refugee as defined by the Refugee Convention, and it was not recognized that he had a "well founded fear of being persecuted". His asylum claim was therefore rejected on 11 January 2002, and his objection was deemed groundless on 24 July 2003. There was no truth to the claim that immigration officials yelled at him or intimidated him into signing the documents with threats of physical violence. He had no eating disorders during his detention, and he consulted a doctor for dermatitis once a week until his release. There were no facts which indicated a notable decrease in his weight.

Jordan

Urgent appeals

901. On 11 March 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning '**Umar Masa'ad Buhayri**, a computer store manager, aged 37. He was reportedly flying back from Sudan to Vienna via Amman, where he was apprehended and arrested on 12 January 2003 upon arrival. He has not been seen or heard from since. Concerns were expressed that he may be held at one of the General Intelligence Detention (GID) centres. It is not known whether any charges have been brought against him. The authorities have reportedly not allowed him access to a lawyer, his embassy representatives or to his family. In view of the incommunicado nature of his detention, fears were expressed that he might be at risk of torture or other forms of ill-treatment.

902. On 11 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, concerning **Ra'ed Muhammad Hijazi**. He was reportedly sentenced to death on charges including plotting to carry out terrorist activity, illegal possession of explosive material and an unlicensed automatic weapon. It is reported that the State Security Court (SSC) sentenced him to death in January 2003. However, in June 2003, the Court of Cassation overturned the death sentence. The Court of Cassation is also alleged to have asked the SSC to look at whether his case should not have benefited from a Royal Amnesty in 1999. On 8 December 2003, SSC sentenced for the third time Ra'ed Muhammad Hijazi to death. Concern was expressed that he was condemned on the basis of confessions allegedly extracted under torture and after an unfair trial.

Kazakhstan

903. By letter dated 21 July 2003, the Special Rapporteur advised the Government that he had received information concerning the cases which follow.

904. **R. M.**, a 16-year-old boy, reportedly in detention since 7 June 2001, was found guilty on 17 October 2002 of extortion, and sentenced three years' imprisonment in a penitentiary institution. At the time of his arrest, R. M. was reportedly beaten in the groin, on the neck and on his legs. Two police officers brought him to their office in the Regional Division of the Department of Internal Affairs and allegedly hit him on the back and head, and bent his fingers. He is believed to have been subjected to similar ill-treatment throughout the investigation by the same officers. It is alleged that he was interrogated by an examining magistrate and was made to sign a statement in the absence of a lawyer and of his legal representative. Although he was reportedly arrested on 7 June 2001, it is alleged that he had access to his lawyer only on 16 July 2001, and to his mother, as his legal representative, on 17 July 2001. Further, his lawyer is believed to have been denied access to several stages of the proceedings, in particular the indictment, although his signature was said to have been added at the end of the minutes related to these stages. The centre for forensic examination of the Ministry of Justice has reportedly established that the signature was forged. These facts have reportedly been brought to the attention of the prosecution and the court but were allegedly not taken into consideration.

905. **N. Z.**, a 17-year-old boy, was reportedly arrested on 4 March 2002. It is alleged that his mother was informed of his arrest on the next day and was only authorized to see him on 7 March 2002. When they met, N. Z. reportedly told his mother that he had been forced under death threats to sign statements confessing his guilt. He was reportedly visited by the examining magistrate while in Shymkent's centre for preventive detention (SIZO-3). The latter allegedly asked him to confess other unresolved crimes. After having refused to do so, he was reportedly severely beaten.

Urgent appeals

906. On 11 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions,

concerning **Michael Vershinin**, aged 28, of Almaty. He was the subject of a joint urgent appeal sent on 15 March 2002 with the Special Rapporteur on extrajudicial, summary or arbitrary executions (see E/CN.4/2003/68/Add.1, para. 778). No reply had been received from the Government to date. Michael Vershinin is reported to be at risk of imminent execution following a death sentence imposed on 28 September 2001, reportedly on the basis of a confession extracted under torture. He was allegedly beaten, suffocated with a plastic bag, kept in a metal box and subjected to other forms of torture and ill-treatment during the first three days of his detention in August 1999.

Observations

907. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Rights of the Child (CRC/C/15/Add.213, paras. 36, 37 and 66), which stated that continuing allegations of torture of persons under 18, including for purposes of extorting confessions, is widespread, and that the existing procedure for investigating such allegations is ineffective and does not provide for the protection of the victims. It expressed concern that corporal punishment, despite being forbidden in schools, continues to be used. In addition, parents or guardians of children kept in pre-trial detention are not immediately informed (often only after a lengthy period of time), and such detention can last for 18 months.

Kenya

908. By letter dated 7 August 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information concerning the cases which follow.

909. **John Gachungu Mwangi**, aged 50. He reportedly died on 5 April 1999 in Thika Police station, after he was arrested for being in possession of *chang'aa* (homemade alcohol). According to the autopsy report, his death could be attributed to head injury following blunt trauma. There were reportedly features of increased intracranial pressure, which allegedly indicated that he was alive for some time following the injuries.

910. **Dismas Maina Muthogu**, aged 47, was reportedly arrested on 30 June 1999 and taken to Juja police station where, according to a police post-mortem report, he committed suicide by hanging on 1 July 1999. According to another post-mortem report received by the Special Rapporteurs, it is suggested that the deceased had been subjected to some degree of physical violence before his death. It is alleged that there was bleeding into the soft tissue over the knees, bruising of the soft tissue over the wrists, left hand and neck. It is also reported that there was an internal bruising over the scalp and a fracture of the left horn of the hyoid bone.

911. **Peter Kariuki**, aged 31, reportedly died on 17 July 1999, two hours after having reportedly been arrested by the police and taken to Karia AP post. According to an autopsy conducted on 22 July 1999, there was bleeding into the soft tissue over the knees, wrist regions, ankle joints and elbows, a large haematoma in the left deltoid muscle and bleeding in the right shoulder joint as well as bruising of the soft tissue around the manubrium sternum. The post-mortem report received by the Special

Rapporteurs indicates that the cause of death could have been asphyxia due to mechanical neck compression.

912. **Kennedy Ouko Nyanoti**, aged 24, was reportedly admitted to Kenyatta National Hospital intensive care unit on 19 July 1999, after he had allegedly been assaulted by two prison warders at Hamit. It is reported that he sustained a head injury and that he remained unconscious until he died on 27 July 1999. The Special Rapporteurs received a post-mortem report which confirmed these allegations.

913. By letter dated 17 September 2003, the Special Rapporteur advised the Government that he had received information concerning **Malachi Ogechi Kiage**, aged 28. He was reportedly arrested at his home in Igare Chiefs' Camp on 23 December 2001. During this detention, he was reportedly subjected to flogging, kicking and whipping. He is also believed to have had his testicles pulled and to have had flashlights directed at his eyes. He allegedly sustained injuries on his face, head, chest, testicles, knees and ankles. It is alleged that he was not allowed to receive visits during the first eight days of his detention, and that he was visited by a doctor for the first time 11 days after his arrest. He is said to have not received appropriate medical treatment for his injuries.

914. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996, 1997, 1998 and 2001 for which no responses had been received. By letter dated 16 October 2003, the Government, noting that the allegations related to incidents that took place between 1994 and 2001, indicated that following elections held in December 2002, a new Government was inaugurated in January 2003. Composed of a large number of former human rights activists, the Government reported that a premium was being placed on the protection and promotion of human rights, and that it has exposed all abuses of human rights by the previous regime. Accordingly, the cases referred to were all overtaken by events.

Urgent appeals

915. On 16 December 2002, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **D. A.** and **I.O.N.**, high school students aged about 16. On 4 December 2002 the two students were reportedly arrested by police at the Akemo Valley Nursing Home in Trans Mara, northern Kenya, where they were receiving treatment for critical gunshot wounds sustained during a police operation targeting cattle rustlers near the border of Gucha and Trans Mara districts. It is reported that the district police officers entered the hospital and removed the medical equipment from the two students before taking them to an unknown location. Concerns were expressed on their health conditions. In view of the incommunicado nature of their detention, fears were expressed that they might be at risk of torture or other forms of ill-treatment.

Kyrgyzstan

916. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2000, 2001 and 2002 for which no responses had been received.

Urgent appeals

917. On 28 March 2003, the Special Rapporteur sent an urgent appeal concerning **five men in Jalal-Abad** who were reportedly arrested on 22 March 2003 in connection with their alleged involvement in the Hizb-ut-Tahrir group. They were reportedly arrested under article 299 of the Criminal Code. **Adyljan Izatullaev** from Kumushaziz village in Suzak district was reportedly detained for keeping four religious books of 10 pages. **Aibek Satarov** and **Muhamadulla Madalijinat**, both members of "Hizb-ut-Tahrir" and their relatives **Ergeshov Bahtiyar** and **Bahadyr** from Bazarkorgon district were detained for keeping leaflets concerning the group. In view of previous reports alleging ill-treatment of Hizb-ut-Tahrir members in custody, fears were expressed that they may be at risk of torture and other forms of ill-treatment.

918. By letter dated 5 May 2003, the Government reported that the individuals were on suspicion of a violation of article 299, paragraph 1 of the Criminal Code, which refers to: "Activities intended to incite ethnic, racial or religious hatred, belittle ethnic dignity or spread propaganda concerning the exclusivity, superiority or inferiority of citizens by reason of their attitude to religion, ethnicity or race, if such actions are carried out publicly or using the mass media." According to a report by the Procurator-General's Office, there were no instances of cruel treatment or psychological pressure applied to the detainees during their confinement in a temporary detention facility. On the contrary, when the case was examined at the investigation stage, the detainees were released, except for Aibek Satarov, with signed undertakings that they would not to leave the area before the commencement of a judicial hearing.

919. On 15 April 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the right to freedom of opinion and expression, concerning **13 members of Hizb-ut-Tahrir**, including **Anvarjon Iminjonov** and **Ulukbek Kochkorov**, who were arrested for distributing leaflets opposing the war in Iraq. It is reported that the leaflets, which were in Kyrgyz, Russian, Uzbek and Arabic, called on all Muslims to oppose the war in Iraq. Ten of those arrested were reportedly charged with inciting ethnic and religious enmity, under article 299 of the Criminal Code. According to information received, the families of those arrested have not been told of their whereabouts. In view of the incommunicado nature of their detention in an unknown location, fears were expressed that they may be at risk of torture and other forms of ill-treatment while in custody.

920. On 24 April 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Sultan Tashtemirov**, **Akjol Karagulov** and **Erlan Bektemirov**. The three men are believed to be members of the Hizb-ut-Tahrir group. They are reportedly held in incommunicado detention in an unknown place. In view of the nature of their detention, and of previous allegations according to which members of the Hizb-ut-Tahrir were being subjected to torture and ill-treatment while in detention, concern was expressed for the physical and mental integrity of the above-mentioned persons.

921. By letter dated 4 June 2003, the Government reported that the three individuals were held in a remand unit administered by the Kyrgyz National Security Service. Erlan Bektemirov has been released subject to a restricted residence order. These individuals were arrested on suspicion of a violation of article 299 of the Criminal Code of the Kyrgyz Republic.

922. On 5 June 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the right to freedom of opinion and expression, concerning **Hasanbaev Salijan**, aged 45. He was reportedly arrested on 23 May 2003 by members of Osh oblast Department of the Interior at Kara-Suuy market. It is alleged that he has been arrested for possession of documents relating to the banned Hizb-ut-Tahrir party. It is reported that the Ministry of the Interior has kept his whereabouts secret and has attempted to conceal his name since his arrest. He is reported to have been denied access to legal counsel and his relatives have allegedly not been informed of his condition. In view of previous allegations that a number Hizb-ut-Tahrir members have been subjected to torture or other forms of ill-treatment while in detention, and in view of the alleged incommunicado detention of Hasanbaev Salijan in an unknown location, concern was expressed that he may be at risk of torture and other forms of ill-treatment.

Lao People's Democratic Republic

Urgent appeals

923. On 12 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, concerning **Thierry Falise, Vincent Reynaud, Maw Karl Mua, and four Lao nationals** whose names are unknown. According to information received, on 4 June 2003 the above-mentioned persons were arrested by local security services in Phoukout district, Xieng Khouang province, northeast of the capital Vientiane. It is reported that at least one person may have been killed when they were apprehended by the Lao authorities. They were accompanied by Maw Karl Mua and four local guides. In view of the incommunicado nature of their detention at an unknown location, concern was expressed that the detainees may be at risk of torture or ill-treatment.

924. By letter dated 16 June 2003, the Government reported that, on 4 June 2003, Xieng Khouang provincial policemen had arrested three foreigners who cooperated with bandits in the killing of a security official of Khai village, in the district of Phoukout, Xieng Khouang province. These foreigners are detained and held under thorough investigation by the Xieng Khouang provincial authority. They will be prosecuted under the penal law of the Lao People's Democratic Republic in a fair and timely fashion. Torture is strictly prohibited by law. Accordingly, the police investigation and prosecution will be conducted fairly and objectively, while the detainees will be treated with necessary care at all times.

Observations

925. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Elimination of Racial Discrimination

under its early warning and urgent action procedure (CERD/C/63/Dec.1/Rev.1, para. 3). It indicated reports that some members of the Hmong minority, who have taken refuge in remote villages in the provinces of Xieng Khuang, the Saisombun Special Zone, North Vientiane-Vang Vieng, Bolikhamsai and Sainyabuli, have been subjected to severe brutalities, such as the bombing of villages, use of chemical weapons, landmines, extrajudicial killings and torture by the armed forces.

Lebanon

926. Par une lettre datée du 17 septembre 2003, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements selon lesquels des prisonniers incarcérés depuis la fin de 1999 ou le début de 2000 en raison de leur implication présumée dans des affrontements armés à Dhinniyah, en décembre 1999, auraient depuis lors été soumis à des actes de torture ou autres formes de mauvais traitement. À cet égard, le Rapporteur spécial avait envoyé deux appels urgents les 12 juin et 22 août 2002, auxquels le gouvernement avait déjà répondu par des lettres datées des 22 et 29 juillet et du 22 octobre 2002 (voir E/CN.4/2003/68/Add.1, par. 792 à 794). Le Rapporteur spécial a indiqué au gouvernement qu'il avait reçu des renseignements nouveaux sur les cas individuels suivants.

927. **Muhammad Khaled** se serait rendu dans un bureau des forces de sécurité en compagnie de son frère et d'un autre de ses proches le 24 janvier 2000, suite à des appels téléphoniques anonymes lui indiquant qu'il était recherché par les forces de sécurité. Il aurait alors été renvoyé au Ministère de la défense où on l'aurait obligé à se déshabiller entièrement. Tous ses effets personnels auraient été confisqués. On lui aurait bandé les yeux et attaché les mains dans le dos avec des menottes. Il aurait été contraint de rester debout pendant sept heures, le visage contre le mur et les jambes écartées, et il aurait été privé de nourriture et d'eau. Il n'aurait pas été autorisé à parler et il aurait été battu à plusieurs reprises, notamment pendant les interrogatoires, qui se seraient prolongés pendant plusieurs heures et qui n'auraient été interrompus que lorsqu'il n'était plus en état de parler. Les coups auraient cessé après que sa jambe et son bras gauches auraient gravement enflé. Au bout de six jours environ d'interrogatoire, il aurait été forcé de signer un document qu'il n'aurait pas été autorisé à lire, sous la menace de viol contre sa femme. Suite aux interrogatoires, il aurait été maintenu en isolement et au secret avant d'être transféré dans un bâtiment voisin. Il aurait été présenté à un juge d'instruction le 12 février 2000. Ce dernier aurait été accompagné de deux membres des services de renseignement en civil et d'un greffier. Le détenu aurait informé le juge qu'il avait été contraint de signer des documents et lui aurait rapporté le traitement reçu pendant les interrogatoires.

928. **Umar Miqati** aurait été arrêté en avril 2000 à l'aéroport de Beyrouth. Au cours des interrogatoires, des agents de police auraient tenté de le forcer à admettre qu'il faisait partie d'un groupe de Dhinniyah qui aurait préparé une opération militaire. Il aurait été suspendu par les poignets attachés dans le dos pendant environ une heure et demie, et alors qu'il aurait été dans cette position, il aurait reçu des coups sur la plante des pieds avec des bâtons et des câbles, cela sous la direction d'un colonel. Il serait resté sans manger pendant 24 heures, privé de sommeil et maintenu enfermé les yeux bandés dans une pièce sombre. Il aurait reçu des menaces contre lui et les membres de sa famille. Il aurait perdu connaissance à deux reprises. Il aurait été forcé de signer des documents dont il aurait ignoré le contenu. Sept jours après son

arrestation, il aurait été transféré au centre de détention du Ministère de la défense à Yarzé, où il aurait subi d'autres mauvais traitements.

929. **Fadi Taybah**, dont le cas figure dans l'appel urgent envoyé par le Rapporteur spécial le 12 juin 2002 cité ci-dessus, aurait été remis en liberté sous caution le 29 juillet 2002. Il aurait été arrêté une seconde fois le 12 août 2002 à Tripoli. Détenu dans un premier temps dans les locaux des services de renseignement de l'armée dans le quartier d'Al Suwayqa, à Tripoli, il aurait ensuite été emmené à Baabda, les yeux bandés et les mains attachées dans le dos avec des menottes, avant d'être transféré au centre de détention du Ministère de la défense à Yarzé. Il aurait été violemment frappé à coups de câble sur la tête, les mains et le ventre et insulté. Il aurait également été soumis à des chocs électriques, tout en étant privé de nourriture et d'eau pendant trois jours. Des membres des services de renseignement lui auraient donné des coups de câble sur la plante des pieds après les avoir mouillées, pendant que d'autres individus – qui pourraient être des membres des services de renseignements syriens – l'auraient interrogé au sujet de l'attentat contre le domicile de George Aquri. Le 14 août 2002, il aurait été transféré au centre de détention du Ministère de la défense, où il serait resté jusqu'au 20 août 2002, date à laquelle on l'aurait emmené dans les locaux des services de renseignement de l'armée dans le quartier d'Al Qubba, à Tripoli. Il aurait été remis en liberté dans l'après-midi sans inculpation.

930. **Khaled Minawi**, un militant islamiste de 18 ans, aurait été arrêté en octobre 2002 par les services de renseignement de l'armée à l'occasion d'une vague d'interpellations de militants islamistes sunnites accusés de liens avec Al-Qaida. Il aurait été renvoyé devant le tribunal militaire pour appartenance à une organisation «terroriste». Lui et deux autres hommes arrêtés dans les mêmes circonstances, **Muhammad Ramiz Sultan** et **Ihab Hussain Dafa** auraient été maintenus au secret avant d'être inculpés de délits relatifs au terrorisme. Au cours de sa détention au secret au centre de détention du Ministère de la défense, Khaled Minawi aurait été suspendu par les poignets attachés dans le dos. Dans cette position, il aurait reçu des coups sur la plante des pieds avec des bâtons et des câbles. Il aurait également reçu des coups violents au visage et au ventre et aurait été privé de nourriture. Les deux autres hommes auraient également été soumis à des mauvais traitements.

931. D'après les renseignements reçus par le Rapporteur spécial, les personnes détenues suite aux incidents de Dhinniyah auraient pour la plupart été transférées aux prisons de Qasr Nura et de Rumieh. À Qasr Nura, des prisonniers auraient été maintenus pendant huit mois dans des cellules minuscules où six à huit personnes auraient été entassées. Ils auraient été privés de lits, de matelas et de couvertures et n'auraient eu qu'un drap léger qu'ils devaient étendre sur le sol pour dormir, ce qui ne les aurait pas protégé du froid. Les cellules auraient été mal ventilées et les prisonniers privés de la lumière du jour, d'air frais et d'exercice. Par ailleurs, les détenus n'auraient eu le droit de prendre une douche qu'une fois par semaine, voire une fois tous les 15 jours. La nourriture serait insuffisante et peu salubre et plusieurs prisonniers seraient tombés malades. En particulier, **Ihab al Banna** et **Said Minawi** auraient contracté la gale. Après avoir passé plusieurs mois à Qasr Nura, les prisonniers de Dhinniyah auraient été transférés à Rumieh, où ils auraient continué à subir des mauvais traitements. Ils auraient eu les yeux bandés pendant leur transfert au tribunal. Le 26 octobre 2002, **Khaled Akkawi** aurait été battu par les gardiens parce

qu'il leur avait dit qu'en raison de douleurs dorsales il ne pouvait pas se baisser pour qu'ils puissent lui mettre son bandeau. Il aurait par la suite signalé cet incident au Conseil de justice. Le procureur se serait saisi de l'affaire et, après avoir interrogé Khaled Akkawi ainsi que les gardiens qui l'avaient transféré, il aurait conclu que cet homme avait été battu. Aucune sanction n'aurait été prise contre les gardiens mis en cause.

932. Le Rapporteur spécial a également informé le gouvernement qu'il avait reçu des renseignements selon lesquels, le 17 janvier 2003, 17 des prisonniers de Dhinniyah auraient boycotté une audience de leur procès devant le Conseil de justice. Lors de l'audience précédente, ils auraient informé le Conseil de leur intention de boycotter le procès pour protester contre les mauvais traitements qui leur étaient infligés et réclamer leur mise en liberté jusqu'au jugement. Les forces de sécurité auraient réagi par un usage excessif de la force, en frappant les détenus à coups de matraque et en utilisant du gaz lacrymogène pour les contraindre à mettre un terme au boycottage du procès. Le Département de la sécurité intérieure aurait déclaré que les détenus auraient utilisé contre les policiers des instruments tranchants «de leur fabrication». De très nombreux membres des forces de sécurité et des services de renseignement de l'armée auraient pénétré dans la prison et attaqué les détenus alors que des négociations étaient en cours pour les persuader d'assister à l'audience. Plus de 10 prisonniers et cinq membres des forces de sécurité auraient été blessés à cette occasion. Suite à cet incident, les prisonniers de Dhinniyah auraient été battus et placés en isolement. D'autres détenus de la prison de Rumieh auraient également été battus, apparemment à titre de punition collective, par des membres des forces de sécurité pour avoir manifesté leur solidarité avec les prisonniers de Dhinniyah. Une dizaine de prisonniers auraient été blessés, dont certains grièvement. Deux d'entre eux, Ihab al Banna et Said Minawi, auraient été admis à l'hôpital Dhahr al Bashiq; à leur retour en prison, ils auraient été maintenus au secret pendant plus d'une semaine et privés de tout contact avec leur avocat et leurs proches. Les détenus auraient été placés en isolement dans des cellules sans lumière naturelle et privés de nourriture pendant deux jours. Des membres des forces de sécurité leur auraient rasé la barbe, qui a pour eux un caractère d'obligation religieuse, et auraient «profané», notamment en les piétinant, des livres et autres écrits religieux leur appartenant, vraisemblablement pour les punir. Aucune enquête indépendante n'aurait été menée sur ces faits.

Appels urgents

933. Le 22 janvier 2003, le Rapporteur spécial a envoyé un appel urgent concernant **Tareq Souid**, tunisien, qui risquait, d'après les renseignements reçus, d'être refoulé vers la Tunisie dans les jours suivants. Toutes les tentatives de relocation dans un pays tiers selon les procédures d'urgence du Haut-Commissariat des Nations Unies pour les réfugiés auraient pour l'instant échoué et les autorités concernées auraient fixé le 27 janvier 2003 comme date limite avant son renvoi en Tunisie. Il aurait quitté la Tunisie en 1993 car il serait sympathisant du parti d'opposition Ennahda (Renaissance), déclaré illégal par les autorités tunisiennes. Des craintes avaient été exprimées quant au fait qu'il risquerait d'être soumis à des mauvais traitements s'il était renvoyé de force en Tunisie.

Suite donnée aux plaintes signalées dans des communications précédentes

934. Par une lettre datée du 18 décembre 2002, le gouvernement a répondu aux cas transmis par le Rapporteur spécial par deux lettres datées du 30 septembre 2001. Le gouvernement avait déjà répondu à certains de ces cas (E/CN.4/2002/76/Add.1, par. 892 à 909 et E/CN.4/2003/68/Add.1, par. 798 à 803).

935. Concernant **Clarissa Colliante** (f) et **Elda Esquillo** (f) (E/CN.4/2002/76/Add.1, par. 906), le gouvernement a informé que les allégations contenues dans la lettre du Rapporteur spécial étaient fausses.

936. Concernant **Farhoud Fakadu** (f) (ibid., par. 907), le gouvernement a informé qu'elle avait confessé un crime sans avoir été soumise à aucune forme de pression. Elle avait été soumise à un examen judiciaire en accord avec le droit en vigueur. Les allégations à son égard contenues dans la lettre du Rapporteur spécial étaient fausses.

Observations

937. Le Rapporteur spécial voudrait attirer l'attention sur certaines préoccupations exprimées par le Comité des droits de l'enfant (CRC/C/15/Add.169, par. 34, 38 et 60) concernant des allégations selon lesquelles des enfants de 15 ans seulement ont été soumis à la torture et à des mauvais traitements alors qu'ils étaient détenus au secret. Le Comité a également déploré qu'il soit culturellement et légalement acceptable dans l'État partie de recourir à la violence comme moyen de discipline dans la famille comme à l'école. Le Comité s'est inquiété de ce que, malgré l'interdiction des châtiments corporels par une décision ministérielle, ceux-ci soient encore pratiqués dans les écoles. Le Comité est préoccupé en outre par le fait que les mineurs, en particulier les filles, qui ont maille à partir avec la justice ne sont pas séparés des adultes et qu'ils sont souvent détenus dans des prisons pour adultes.

Liberia

938. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001 and 2002 for which no responses had been received.

Urgent appeals

939. On 29 April 2003, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers concerning **Sheikh K.M. Sackor**, the Executive Director of Humanist Watch, a non-governmental human rights organization. He was reportedly arrested on 25 July 2002 in Monrovia. A joint urgent appeal was previously sent concerning his case on 30 September 2002 (E/CN.4/2003/68/Add.1, para. 817). To date, no response had been received. On 23 October 2002 it was reported that the Minister of National Defence announced that a military tribunal had concluded that he was a prisoner of war. It is alleged that despite the government announcement on 28 October 2002 that he would be released under certain conditions, Sheikh K.M. Sackor is reportedly still held in

incommunicado detention at an unknown place. Another human rights activist who was allegedly arrested on 24 June 2002, **Hassan Bility** (whose case was included in the above-mentioned urgent appeal, as well as in two other urgent appeals sent with the Special Rapporteur on the right to freedom of opinion and expression on 27 June 2002 and 12 July 2002, *ibid.*, paras. 815, 816) was reportedly released on 7 December 2002 and has fled the country. He is believed to have reported appalling conditions of detention and to have been subjected to torture while in custody. In view of the reported incommunicado detention at an unknown location of Sheikh K.M. Sackor and allegations of torture of another human rights activist, fears were expressed that he may be at risk of torture or other forms of ill-treatment and to similarly poor conditions of detention.

Libyan Arab Jamahiriya

940. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 and 2002 for which no responses had been received.

Follow-up to previously transmitted communications

941. By letter dated 17 October 2003, the Government provided information concerning the following cases.

942. **Ali Mansour Mhemmed Al-Guinaidy** (E/CN.4/2003/68/Add.1, para. 819), was sentenced on 5 March 2003 by the Misratah City Criminal Court to amputation of his right hand for the theft of a vehicle on 1 June 2002. Mr. Al-Guinaidy appealed the verdict before the High Court, which upheld the verdict. On 23 June 2003, the sentence was carried out at one of Tripoli's main hospitals, using recognized medical procedures. The sentence was imposed in accordance with the precepts of the Holy Quran, which is the main source of Libyan law. Those precepts have been codified in Act No. 13 of 1996. The act of theft is regarded as blatant encroachment on the property of others, a violation of the social order and as a disavowal of Islamic principles.

943. **Mohammad al-Fourtiya** (E/CN.4/1999/61, para. 449) died at the Department of Internal Medicine of Tripoli Central Hospital at 2.25 a.m. on 1 October 1994. The doctor's report and the burial certificate indicated that the cause of death was bronchitis and circulatory and respiratory failure.

944. **Al-Haddar Ben-Hayal** (*ibid.*, para. 450) collapsed and was taken to Ali Amar Askar Hospital, where he was admitted to the Department of Neurobiological Surgery. He was kept in intensive care, because he had fractured two vertebrae, and he underwent an operation. He died at the hospital on 8 February 1994. The forensic doctor's report described the cause of death as heart disease, which brought on heart and respiratory failure.

945. **Nouri Shalfit** (*ibid.*, para. 451) died on 8 April 1991 as the result of a sudden illness. The body was examined by a forensic doctor, who declared the cause of death as heart and respiratory failure.

946. **Jamal al-'Arbi** (ibid., para. 452) was struck down by a sudden illness and immediately transferred to the Department of Internal Medicine of Tripoli Central Hospital. He remained in hospital until 4 May 1991, when he passed away as the result of heart and respiratory failure. The body was examined by a forensic doctor, who declared the cause of death as heart disease, which brought on heart and respiratory failure.

Urgent appeals

947. On 30 July 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning seven Eritrean nationals, namely **Zacharias Michael Belay, Misghina Siyoum, Mesfin, Rezene, Yonas, Michael** and **Abel**. They are reportedly detained in the Libyan Arab Jamahiriya and are reported to be at imminent risk of being forcibly returned to Eritrea where they could face torture, secret and incommunicado detention, as well as possible extrajudicial execution. The men are said to be military conscripts aged in their twenties who deserted the army because of the alleged indefinite extension of their military service. It is alleged that about 220 Eritreans, mainly conscripted army deserters and draft evaders, were returned between 30 September and 3 October 2002, and have since then been held in incommunicado detention. In the light of previous reports of allegations of torture and incommunicado detention of deserters in Eritrea, fears have been expressed that the seven men named above may be at risk of torture or other forms of ill-treatment if they are returned to Eritrea.

Observations

948. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Rights of the Child (CRC/C/15/Add.209, para. 45), which indicated that conditions in detention, including pre-trial detention, are poor.

Malaysia

949. By letter dated 30 July 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following cases. The Government responded by letter dated 27 November 2003.

950. **M. Ragupathy**, aged 22, was reportedly arrested in July 2002 on suspicion of robbery with nine other men. All were allegedly taken to Sepang police station and later remanded for 12 days, from 18 to 30 July 2002. M. Ragupathy, who had a prior heart condition, reportedly started complaining sleep to police officers of chest pains and inability to on 20 July 2002. It is alleged that his condition worsened, he was unable to eat for three days and that he began vomiting. His repeated requests to the police for medical attention were reportedly denied until 26 July 2002, when he was taken to a clinic. Although he was given some medication, his condition reportedly deteriorated and he was taken by the police to Putrajaya hospital the next day. He was reportedly declared dead on 28 July 2002.

951. The Government reported that M. Ragupathy complained of breathing difficulties on 26 July 2002 while in police lock-up, and was taken to the government clinic in Sepang. The next day, Mr. Ragupathy again complained of breathing difficulties and was taken to the same clinic. The clinic referred him to the Putrajaya Hospital, where he was admitted into the intensive care unit and pronounced dead at 2.45 a.m. on the morning of 28 July 2002. The autopsy revealed that he died of congestive cardiac failure and a stenosed mitral valve prosthesis.

952. **M. Uthayamaran**, aged 33, was reportedly arrested on 26 August 2002 and subsequently detained for 77 days in police stations in Kuala Lumpur, Kuantan, Temerloh, Rawang, Ipoh, and Kajang, where he allegedly died. According to the post-mortem report, the cause of his death was a heart-related disease. However, his wife reportedly lodged a complaint alleging that M. Uthayamaran had no cardiovascular problems.

953. The Government reported that M. Uthayamaran was taken from the Kajang lock-up to the Kajang Hospital when he complained of chest pains. He was admitted to the emergency ward and later pronounced dead. The cause of death was ischemic heart disease.

954. **Vivashanu Pillai**, aged 24, was reportedly found dead in a rubbish container in the Klang River, near Bangsar, on 4 August 2002. It is reported that he had been arrested by police on 1 August 2002 and detained at the Dang Wangi police station, from where he allegedly escaped on the following day. Although his corpse was decomposed and bloated, a fellow detainee reportedly identified it due to a bruise on the upper right buttock and injuries on his wrists. It is reported that while in detention Vivashanu Pillai had been beaten with cables while handcuffed. Concerns were expressed that he may have died in police custody and his body thrown in the river.

955. The Government reported that **Vivashanu Pillai** had originally been remanded at the Dang Wangi police station. On 2 August he managed to escape during a transfer to the Tun H. S. Lee police station. A search for him was launched without success. He was subsequently found in a dumpster in Bangsar and was identified by his parents and close relatives. The autopsy could not identify the cause of death.

956. The Government reported that in each of the cases, as in any case of death of a detainee, the police officer in charge must submit a formal report. This report forms the basis for an investigation into the death. Should an investigation reveal the existence of foul play, then the perpetrators would be punished to the full extent of the law. The Government views the issue of deaths in custody seriously and has taken the necessary steps to ensure that such occurrences are not commonplace. These deaths are not the result of any kind of physical torture or bodily harm caused by the authorities during detention. They are isolated cases and immediate medical attention was rendered whenever possible.

957. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001 for which no response had been received.

Urgent appeals

958. On 17 January 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Saudara Udayakumar**, a lawyer and Chairman of the Parti Reformasi Insan Malaysia (PRIM). He was reportedly arrested on 16 January 2003 outside the Sepang Magistrate's Court, immediately after a session of the inquest into the death in custody of Tharma Rajen a/l Subramaniam. Saudara Udayakumar is said to be a lawyer in the case. It is believed that he is being held under section 506 of the Criminal Procedure Code at the Sepang Police Station, although this has not been confirmed by the authorities. In view of the incommunicado nature of his detention at an unknown location, fears were expressed that he may be at risk of torture and other forms of ill-treatment.

959. On 25 February 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Abdul Manaf Kasmuri**, an ex-army officer. He was allegedly arrested at his house on 20 February 2003 by the Malaysian police under the Internal Security Act (ISA). ISA reportedly allows for indefinite detention without charge or trial. His place of detention is not known. In view of the incommunicado nature of his detention at an unknown location, fears were expressed that he might be at risk of torture or other forms of ill-treatment.

960. By letter dated 9 May 2003, the Government reported that Abdul Manaf Kasmuri was detained under section 8(1) of ISA for his involvement in activities which pose a threat to national security. He was subsequently transferred to the Kamunting Detention Centre in Perak. His treatment in Kamunting is subject to the safeguards for his personal safety provided under the Rules for Preventive Detention. He has not been abused or subjected to any form of torture.

961. On 17 March 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Mohamad Amin Musa**, aged 29. He was reportedly arrested on 9 March 2003 under ISA. It is reported that a spokesperson for the police stated that Mohamad Amin Musa had been arrested in the southern Malaysian State of Johor. It is not known whether he had access to a lawyer. In view of previous allegations regarding ISA detainees, fears were expressed that Mohamad Amin Musa may be at risk of torture and other forms of ill-treatment.

962. By letter dated 22 October 2003, the Government reported that Mohamad Amin Musa was first arrested by police on 12 March 2003 under section 73 (1) of ISA for questioning concerning activities which threatened the peace and security of the country. Under ISA, police authorities are empowered to detain, pending inquiries, any person whom they have reason to believe "has acted or is about to act or is likely to act in any manner prejudicial to the security of Malaysia or any part thereof or to the maintenance of essential services or to the economic life thereof." On 12 May 2003 the Minister for Home Affairs signed the order for Mohamad Amin Musa to be detained for two years under section 8 of ISA for his involvement in Jemaah Islamiyah (JI). The Government reported that the United Nations Security Council Counter-Terrorism Committee listed JI on 25 October 2002 as an "entity belonging to

or associated with the Al-Qaeda organization.” Mohamad Amin Musa is being held at the Kamunting Detention Centre in Perak, where his physical and mental integrity are safeguarded by the Rules on Preventive Detention. There have been no reports that he was ill-treated in any way, nor is he at risk of being tortured. All prisoners under ISA are accorded the treatment due to them and are given medical attention whenever necessary.

963. On 16 July 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to freedom of opinion and expression concerning a group of Myanmar nationals among a group of approximately 40 demonstrators reportedly arrested in Kuala Lumpur for protesting against the continued detention of pro-democracy leader Aung San Suu Kyi in Myanmar. The demonstrators were reportedly stopped by police about 20 metres from the Myanmar embassy. The police ordered the protestors to disperse, but those who resisted and held up their signs were arrested. The following persons were reportedly arrested on 19 June 2003: **Mu Mu Kyaw Lyin, A War, Thaung Shwe, Swe Taet Htun Wo** and **Kolet**, and one other person whose name and situation is currently unknown. A War and Thaung Shwe are reportedly still detained. A War has allegedly been charged under the Immigration Act for illegal entry, and faces up to five years in prison, a fine of up to RM10 and up to six strokes of the whip. Thaung Shwe, charged with overstaying his visa, could reportedly face the same sentence, without the whipping. These two persons are members of the National League for Democracy, a Myanmar opposition group. Fears were expressed that the persons who remain in detention might be at risk of torture and other forms of ill treatment if returned to Myanmar.

964. By letter dated 5 December 2003, the Government reported that the 50 demonstrators who marched to the Embassy of Myanmar without a permit were ordered by the police to disperse. This was repeated twice, after which those who refused were arrested, including **Mu Mu Kyaw Lyin, A War, Thaung Shwe**, and **Swe Taet Htun Wo**. Mu Mu Kyaw Lyin and Swe Taet Htun were subsequently released. A War, on the other hand was found to have entered Malaysia without documents and was charged under section 6 (1) of the 1959 Immigration Act. Thaung Shwe was found to have overstayed his visa and therefore was in contravention of section 15 (1) (c) of the Immigration Act. Both individuals were being detained in the Sungai Buloh Prison pending investigation of their case. The arrests were made in accordance with due process of law, and therefore the allegation of arbitrary deprivation of liberty does not arise. Despite the universality of the Universal Declaration of Human Rights, the Declaration is only morally binding on States. Malaysia is not a party to the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment. Under domestic law, provisions of the Immigration Act 1959 would apply to all persons entering Malaysia and violations thereof would result in a person's deportation. Malaysia believes that interference by a State in the internal matters of another sovereign State will only serve to sour bilateral relations.

965. On 22 August 2003, the Special Rapporteur sent an urgent appeal concerning **Noralwiseh Lee Abdullah** (f), who was reportedly arrested on 11 August 2003 in Ayutthaya, Thailand, and is currently being held at an unknown location by the Malaysian police under ISA. In view of her alleged incommunicado detention at

an undisclosed location, fears were expressed that she may be at risk of torture or other forms of ill-treatment.

966. By letter dated 22 October 2003, the Government reported that as of 12 September 2003, Noralwiesh Lee Abdullah, wife of JI Operations Chief Hambali, was still detained under section 73 (1) of ISA. She is being detained for the purpose of investigating her involvement in JI activities. To date she has twice received visits from family members and given due medical attention. All ISA detainees are given appropriate treatment under the law and they have not been subjected to torture or cruel or degrading treatment by the authorities in the execution of their duties.

967. On 22 August 2003, the Special Rapporteur sent an urgent appeal concerning **236 asylum-seekers from Nanggroe Aceh Darussalam (NAD) province, Indonesia, and three from Myanmar**, including 14 women and 2 children aged 9 months and 5 years old, who were reportedly arrested on 19 August 2003. It is reported that one of the Indonesian nationals being detained was already recognized as a refugee, that the asylum claims of 51 others were in the process of being considered by UNHCR, and that 45 other detainees had registered their intention to lodge asylum claims with UNHCR. The three Myanmar nationals are also believed to have submitted asylum claims to UNHCR and were awaiting a decision. Police reportedly erected roadblocks around the UNHCR office in Kuala Lumpur early in the morning of 19 August 2003 and began arresting individuals who were trying to lodge asylum claims. It is reported that detainees were initially taken to Brickfields Police Station in Kuala Lumpur and later to the Langkap detention camp in Perak State. People reportedly detained in such camps and centres in the past have been held in unsanitary conditions and denied access to medical care. Fears were expressed that these persons, including the two children, may be held in conditions that may amount to cruel, inhumane or degrading treatment. It is alleged that, as a result of a military emergency declared in NAD province on 19 May 2003 and renewed military operations against the Free Aceh Movement, there have been grave human rights violations, including torture, and that the number of asylum claims from Indonesian nationals from the province has increased. Fears were expressed for their physical integrity if they are forcibly returned to Indonesia.

968. On 12 November 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Ahmad Muaz Ali Bakry**, aged 21, **Mohamed Amin**, aged 20, **Mohamed Ikhwan Abdullah**, aged 19, **Abu Bakar Mohamed Radzi Abdul Razak**, aged 19, and **Ahmad Firdaus Kamaruddin**, aged 18, students at Abu Bakar Islamic University, Karachi, Pakistan, as well as **Shahrulnizam Hamzah**, aged 21, **Mohamed Akil Abdul Raof**, aged 21, **Edi Irman Shaari**, aged 19, **Mohamed Faiz Kamarulzaman**, aged 18, **Nurul Mohamed Fikri Mohamed Safar**, aged 18, **Mohamed Arifin Zulkamaen**, aged 18, **Abidzar Jaafar**, aged 18, and **M. T. N.**, aged 17, students at the University of Islamic Studies, Karachi. These 13 students, all Malaysian nationals, were reportedly arrested by Pakistani authorities on 20 September 2003 for their suspected links to militant Islamic groups. It is alleged that they were held for two months without charge before being returned to Malaysia, where they were reportedly arrested by the police. The students are reportedly detained under ISA and held in incommunicado detention. Those reportedly detained under ISA in the past have been denied access to lawyers and relatives, and have been

held in solitary confinement during the first 60 days of their detention. Former ISA detainees were allegedly physically assaulted, forced to strip, deprived of sleep, food and water, and told that their families would be harmed. It is also alleged that former ISA detainees had been subjected to prolonged aggressive interrogation techniques that may amount to torture or ill-treatment. Access to judicial authorities by ISA detainees is said to be highly restricted. In view of the allegations regarding individuals detained under ISA in the past and the reported incommunicado detention of the 13 above-named students, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

969. On 18 November 2003, the Special Rapporteur sent an urgent appeal concerning **eight asylum-seekers**, including six men and one woman and her 13-month-old child, **from NAD province**, Indonesia. They were reportedly among a group of 236 asylum-seekers from NAD province whose case was included in an urgent appeal sent on 22 August 2003. No response had been received so far. The asylum-seekers were reportedly transferred to the Langkap Detention Camp, Perak State, following their arrest in Kuala Lumpur in August 2003. Conditions in the camp are said to be poor and unsanitary. The seven above-mentioned asylum-seekers have allegedly refused to be repatriated. They were reportedly beaten by camp guards at Langkap Detention Camp. It is believed that the beatings took place on 13 November 2003 in order to force them to return to Indonesia. They are alleged to be at imminent risk of being forcibly returned to NAD province, where they reportedly would be at risk of human rights violations, including torture and other forms of ill-treatment. Fears were expressed for their physical integrity if they were forcibly returned to Indonesia.

Maldives

Urgent appeals

970. On 23 January 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning the reported sentences handed down to writers **Mohamed Zaki, Ibrahim Moosa Luthfee, Ahmed Ibrahim Didi** and **Fathimath Nisreen** (see also the letter dated 2 September 2002 by the Special Rapporteur, as well as a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur on the Working Group on Arbitrary Detention on 12 February 2002 to which the Government responded by letter dated 1 December 2002, E/CN.4/2003/68/Add.1, paras. 841-843)). It is reported that they are detained in Mafushi prison, and that although they are no longer held in solitary confinement, the conditions of their detention are harsh: they are reported to be kept in handcuffs at all times, visits from relatives are allowed once a month and access to health care is severely limited. The health of Ahmed Ibrahim Didi, who has a heart problem, is therefore particularly at risk, in particular as it is not known whether he has received medical attention. Serious fears were expressed concerning the life and health of the above-named person if he does not receive appropriate and prompt medical treatment.

971. On 27 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning **Mohamed Zaki** and **Ahmed Ibrahim Didi**. (see also above). They were reportedly

taken from the prison island of Maafushi to the police headquarters in Male' for interrogation on 20 June 2003 and have recently been transferred to Dhoonidhoo detention centre, on a small island north of the capital. They are believed to have been kept incommunicado since their removal from Maafushi. In view of their alleged incommunicado detention, fears were expressed that they may be subjected to torture or other forms of ill-treatment.

Mali

972. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 1999, au sujet desquels il n'avait pas reçu de réponse.

Mauritania

973. Par une lettre datée du 24 septembre 2003, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

974. **Yedaly Ould Cheikh**, ancien Ministre de la justice et Secrétaire fédéral du parti Union des forces démocratiques/Ère nouvelle (UFD/EN), et **Mohamed Mahmoud Ould Ematt**, avocat et membre de l'UFD/EN, auraient été détenus le 27 avril 2000 dans les locaux du parti par les forces de l'ordre, qui auraient envahi les locaux de l'UFD/EN et en auraient chassé les militants et sympathisants présents. Les personnes nommées ci-dessus auraient été battues et soumises à d'autres mauvais traitements durant leur détention. Les médecins consultés à Nouadhibou auraient refusé de prendre soin des deux victimes en raison d'intimidations de la police. Néanmoins, un rapport sur les actes de torture et mauvais traitements dont ils auraient été victimes aurait pu être établi par un médecin de Nouakchott.

975. **Mabrouka mint Ainat, Cheikh M'Bake Ould Moustapha, Chaba mint Chaabane, Mouhidine Ould Cheine, Sall Alioune, Diara Gay et Ba Thierno Ousmane** auraient été battus par des représentants des forces de l'ordre lors d'une manifestation organisée le 23 juin 2000 à Nouadhibou par l'UFD/EN. Les forces de l'ordre auraient dispersé avec violence les manifestants en utilisant des grenades lacrymogènes qui auraient été, dans certains cas, tirées à bout portant et en battant plusieurs manifestants. Mabrouka mint Ainat aurait reçu un éclat de grenade à la jambe et Chaba mint Chaabane aurait eu plusieurs hémorragies consécutives aux coups reçus.

Appels urgents

976. Le 9 mai 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Président-Rapporteur du Groupe de travail sur la détention arbitraire, concernant 11 membres du parti baathiste NOUHOUD qui auraient été arrêtés entre le 30 avril et le 3 mai 2003: **Mohamed Abdallah Ould Eya**, secrétaire général du parti; **Mohamed El Kory Ould El Arby, Me Khatry Ould Taleb Jiddou, Mohamed Radhy Ould Naha, Ahmed Ould Oubeid, Ahmed Ould Brahim, Mohamed Ould Radhy, Cheikhna Ould Hijbou, Sidi Ahmed Ould El Kory et Ahmed Ould Bah**. Toutes ces personnes auraient été arrêtées sans mandat et sans signification du motif de l'arrestation. Elles auraient été détenues au secret. Par

ailleurs, **Mohamed Jemil Ould Mansour**, maire d'un grand département de Nouakchott et membre du comité d'un des principaux partis d'opposition, le Rassemblement des forces démocratiques (RFD), aurait été arrêté le 4 mai 2003, et **Cheikh Mohamed El Hacem Ould Dedew**, le 5 mai 2003 à Nouadhibou et transféré le même jour à Nouakchott. Enfin, au cours des journées des 5 et 6 mai 2003, huit imams de mosquée auraient été arrêtés: **Mohamed Lemine Ould El Moustapha**, **Mohamed Lemine Ould Ismail**, **Mohamed Ould Doua**, **Sidina Ould Radhy**, **Khaled Ould Isselmou**, **Hamoud Ould Dhou Nourayne**, **Abdarrahmane Ould Sabar** et **Sidi Amar Ould Cheikhna**. Des craintes avaient été exprimées quant au fait que ces personnes risqueraient d'être soumises à des mauvais traitements.

977. Le 2 octobre 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, concernant les commandants **Mohamed Ould Abdy**, **Mohamed Lemine Ould Laghlal**, **Sidi Mohamed Ould hamady**, **Mohamed Ould Ahmed vall**, **Ahmed Ould Ahmed Abdd**, **Ahmedou Ould Seyam**, le capitaine pilote **Mohamed Ould Sad Bouh**, les capitaines **Sid Ely Ould Mohamed vall**, **Taher Ould Varoua**, **Ely Ould Maghlah**, **Cherif Ahmed Ould Kroumbolle**, **Mahfoudh Ould Beiba**, **El Varrah Ould Echkouna**, **Ejja Ould Sidi Mohamed**, les lieutenants **Ejja Ould Abidine**, **Mohamed Ould Cheibany**, **Saadna Ould Sidi Mohamed**, **Mohamed Ould Hama Vezzaz**, **Bedde Ould Sidi**, **Mahfoudh Ould Sid Mhamed**, **Sedoum Ould Bahah**, **Didi Ould Mhamed** et le sous-lieutenant **Ould Sidi Ould Kheiry**. Ces militaires se trouveraient parmi les 129 officiers, sous-officiers et soldats supposément arrêtés les 9 et 10 juin 2003 suite à une tentative de putsch. Ils seraient restés entre les mains de l'armée et accessoirement de la gendarmerie jusqu'au 11 septembre 2003. Durant ces trois mois de détention, les militaires auraient été tenus au secret et vécu dans des conditions d'hygiène déplorable. Ils auraient été continûment menottés et empêchés de dormir. Ils auraient également été battus, notamment au moyen de crosses de fusil ou de chaussures. Certains auraient reçu des décharges électriques alors que, pieds et poings liés, ils auraient été suspendus au plafond. Certains auraient été soumis à des simulations d'exécution. Ils n'auraient pas été présentés devant un juge avant le 11 septembre 2003. D'après les renseignements reçus, **Ahmed Ould Ahmed Abd**, **Sidi Ely Ould Mohamed Vall** et **Saadna Ould Hamady** étaient maintenus en isolement, et **Mohamed Ould Cheibany**, **Mohamed Ould Vall**, **Mahfoudh Ould Sidi Ahmed**, **Moussa Ould Salem**, **Taher Ould Varoua**, **Mohamed Ould Hamma Vezzaz** ainsi que **Didi Ould Mhamed**, en régime d'isolement dans des cellules partagées. Les autres militaires précités seraient détenus en groupe dans des hangars.

978. Le 19 novembre 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, concernant **Mohamed Khouna Ould Haidalla** et son fils **Sidi Mohamed Ould Haidalla**, **Habba Ould Mohamed Vall**, **Mohamed Yehdhi Ould Breideleil**, **Ismaël Oud Amar** et huit autres personnes. Ils auraient été arrêtés autour du 7 novembre 2003, date des élections présidentielles. Certains auraient été détenus à la prison de Beyla, à Nouakchott, et au poste de police central de Nouakchott. Un groupe de jeunes supporters auraient également été arrêtés avec eux et amenés au poste de police Ksar II, à Nouakchott. **Sidi Mohamed Ould Haidalla** aurait été sévèrement battu lors d'un interrogatoire. **Habba Ould Mohamed Vall**, **Mohamed Yehdi Ould Breideleil** et **Ismaël Oud Amar** seraient diabétiques. **Mohamed**

Khouna Ould Haidalla souffrait de problèmes gastriques et d'une fatigue excessive lors de son arrestation. Malgré les requêtes faites par leurs familles, aucune des personnes nommées ci-dessus n'aurait eu accès à des soins médicaux. Les autorités auraient informé les médias qu'elles auraient été arrêtées pour atteinte à la sûreté de l'État. Cependant, aucune charge officielle n'aurait été portée contre ces personnes, qui, d'après les renseignements reçus, se trouveraient détenues au secret. D'après le Code de procédure pénale mauritanien, les personnes détenues pour atteinte à la sûreté de l'État pourraient être détenues au secret jusqu'à 30 jours.

979. Le 4 décembre 2003, le Rapporteur spécial a envoyé un deuxième appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, concernant **Mohamed Khouna Ould Haidalla** et ses deux fils **Sidi Mohamed Ould Haidalla** et **Sid'Ahmed Ould Haidalla**, **Habba Ould Mohamed Vall**, **Mohamed Yehdhi Ould Breideleil**, **Ismaël Ould Amar**, **Cheikh El Moctar Ould Horma Babana**, **Mohamed Said Ould Zergane** et au moins **huit autres personnes**. Selon de nouveaux renseignements reçus, ces personnes auraient été condamnées le 25 novembre 2003 pour crimes contre la sécurité de l'État, encourant une peine de travaux forcés à perpétuité. Il semblerait que leurs avocats n'auraient eu accès aux dossiers d'instruction que le 27 novembre et que ces personnes auraient été maintenues au secret pendant plus de deux semaines après leur arrestation. Toutes ces personnes seraient détenues à la prison de Beyla à Nouakchott, sauf Sid'Ahmed Ould Haidalla, qui serait détenu à la prison de Aleg, où il serait constamment attaché. Les charges retenues contre lui ne seraient pas claires. Il semblerait de plus que les personnes mentionnées n'auraient pas eu accès à des soins médicaux, malgré des demandes répétées.

Mauritius

980. By letter dated 24 September 2003, the Special Rapporteur advised the Government that he had received information according to which **Bernard Maigrot** was arrested on 23 April 2001 at his home in Cap Malheureux, taken to the Criminal Investigation Division office in Curepipe and later transferred to a prison called Grande rivière du nord-ouest. While in custody, he was reportedly severely beaten, in particular on the genital area.

981. By letter dated 20 November 2003, the Government responded that allegations of brutality by the police against Bernard Maigrot had been investigated in the context of a preliminary enquiry. As both criminal and civil proceedings were pending before the courts, the results of the inquiries into the case could not be communicated at that stage.

Mexico

982. Por carta de fecha 4 de junio de 2003, el Relator Especial notificó al Gobierno que había recibido información sobre los casos individuales siguientes. El Gobierno respondió a dicha comunicación por cartas con fechas 3 y 10 de septiembre y 14 de noviembre de 2003.

983. **Jorge Ignacio Guerra** habría sido detenido por agentes de policía el 26 de julio de 2002 por lavarse en una fuente pública de Querétaro. En lugar de ser llevado a una comisaría, habría sido entregado a unos guardaespaldas y empleados del

governador, quienes lo habrían esposado, introducido en una furgoneta y llevado al auditorio Josefa Ortiz Domingo, donde habría sido repetidamente golpeado y habría recibido amenazas contra él y otros miembros de su familia. Seguidamente, habría sido abandonado en las afueras de San Miguel de Allende. Habría presentado una denuncia ante la Comisión Estatal de Derechos Humanos (CEDH), que a su vez habría recomendado al gobernador de Querétaro tomar las medidas necesarias para investigar los hechos denunciados. El gobernador habría declarado públicamente que la CEDH exageraba y que Jorge Ignacio Guerra no había sido torturado, sino simplemente golpeado.

984. El Gobierno informó que la Procuraduría General de Justicia del Estado (PGJE) procedió a iniciar una averiguación previa radicada en la Agencia del Ministerio Público especializada en investigación de delitos cometidos por servidores públicos. También se radicó un cuaderno administrativo de investigación en cuyo proceso de integración se llevaron a cabo diversas actuaciones a efecto de deslindar responsabilidad de naturaleza administrativa. De acuerdo con un certificado pericial, las lesiones que presentaba no ponían en peligro su vida y tardaban hasta 15 días en sanar. El Gobierno indicó que en el presente caso no se acreditó delito de tortura.

985. **Víctor Javier García Uribe y Gustavo González Meza** habrían sido sacados de sus domicilios por un grupo de personas encapuchadas el 9 de noviembre de 2001, dos días después de que los cadáveres de ocho mujeres fueran hallados en un lote en construcción en Ciudad Juárez, Chihuahua (véase también el llamamiento urgente enviado el 14 de febrero de 2003 *infra*). Los dos hombres habrían sido llevados a una casa particular donde habrían sido golpeados y sometidos a descargas eléctricas con el propósito de obtener una autoinculpación en relación con la muerte de las ocho mujeres. Les habrían mojado el cuerpo y aplicado descargas eléctricas en los genitales. Seguidamente, habrían sido trasladados a la Academia de Policía, donde habrían sido sometidos a tratos similares. El 12 de noviembre de 2001 habrían sido presentados ante el Juez Tercero de lo Penal del Distrito Judicial Bravos por los delitos de homicidio, violación y asociación delictuosa. Se alega que presentaban lesiones, quemaduras y marcas de golpes en diferentes partes del cuerpo. El juez habría declarado que se debían a una enfermedad y al uso del reloj que les apretaba la muñeca. La esposa de Víctor Javier García Uribe y su abogado habrían recibido amenazas para que no denunciaran las alegaciones de tortura. No se habría abierto ninguna investigación en relación con los hechos.

986. El Gobierno informó que dichas alegaciones no eran exactas y eran contradictorias a certificados de sanidad y fe ministerial de inexistencia de lesiones. Los inculpados admitieron haber declarado en las oficinas de la Academia que no fueron golpeados. El Gobierno indicó además que no se descartaba que, por su levedad, las lesiones mostradas durante la declaración preparatoria hubieran sido autoinflingidas. En el momento en que el Gobierno transmitió esta comunicación, la causa se encontraba en el desahogo de las probanzas ofrecidas. El Gobierno afirmó igualmente que las alegaciones según las cuales fueron detenidos sin orden de la autoridad competente y sacados violentamente de sus domicilios por agentes encapuchados eran falsas.

987. **Héctor, Antonio y Alejandro Cerezo**, tres hermanos residentes en la Ciudad de México, habrían sido detenidos el 13 de agosto de 2001 en su domicilio por elementos de la Procuraduría General de la República (PGR), del Ejército Federal

Mexicano, posiblemente de la Policía Judicial Federal y del Centro de Investigación y Seguridad Nacional (CISEN), así como otros sujetos no identificados. Habrían sido detenidos en relación con la detonación de explosivos en tres sucursales bancarias el 8 de agosto de 2001, supuestamente reivindicadas por las Fuerzas Armadas Revolucionarias del Pueblo (FARP). Sus cabezas habrían sido cubiertas con toallas y habrían sido seguidamente trasladados a la Agencia del Ministerio Público en la delegación de Azcapotzalco. Héctor y Antonio Cerezo habrían recibido golpes, habrían sido asfixiados con una bolsa de plástico, forzados a permanecer en posiciones incómodas y amenazados de muerte, tortura y desaparición. Alejandro Cerezo habría sido obligado a permanecer en situaciones incómodas. El 16 de agosto de 2001, habrían sido visitados, supuestamente en presencia de un Fiscal Especializado adscrito a la Unidad Especializada de Delincuencia Organizada (UEDO), por un médico de la Liga Mexicana por la Defensa de los Derechos Humanos (LINEDDH), quienes habrían concluido que se podía suponer que Héctor y Antonio Cerezo fueron víctimas de tortura. Sin embargo el 21 de agosto de 2001, el director de Protección de los derechos humanos de la PGR aseguró en una conferencia de prensa que no se encontraron evidencias físicas o psicológicas de tortura.

988. El Gobierno informó que se procedió a un examen médico de Héctor, Antonio y Alejandro Cerezo el mismo día de su detención. Su declaración ministerial se llevó a cabo el 14 de agosto de 2001, siendo los tres inculcados informados de sus derechos. Este mismo día, se les realizaron fotografías para constatar su estado físico. El Gobierno aseguró que durante el tiempo que estuvieron a disposición del agente del Ministerio Público de la Federación pudieron recibir la visita de sus abogados, familiares y personas de confianza. Un estudio realizado el 17 de agosto de 2001 por el Centro Federal de Readaptación Social n.º 1 La Palma señaló que los inculcados no presentaban lesiones recientes al exterior ni sintomatología de lesiones internas. Dictámenes médicos de reconocimiento físico realizados el 18 de agosto de 2001 por el departamento de medicina forense de la Dirección General de Coordinación de Servicios Periciales llegaron a conclusiones similares. Los dictámenes médicos se llevaron a cabo tomando como referente el Protocolo de Estambul. Los distintos peritajes médicos evidencian que de haber sufrido el maltrato físico alegado, las lesiones hubiesen sido muy distintas y con evolución médica diferente. El Gobierno también informó que el 27 de agosto de 2001 se inició una averiguación previa por delitos de tortura, abuso de autoridad, lesiones y lo que resulte en agravio a los hermanos Cerezo. Finalmente, el Gobierno informó que los hermanos Cerezo fueron trasladados a otro Centro de Readaptación Social (CERESO).

989. **Reyes Alpizar Ortiz** habría sido detenido tras la muerte de una regidora del ayuntamiento municipal de Atizapan de Zaragoza, Estado de México, el 5 de septiembre de 2001. Durante su detención, habría sido mantenido incomunicado durante 30 días, golpeado y amenazado para que se autoinculpara.

990. El Gobierno informó que Reyes Alpizar Ortiz afirmó en su declaración que las lesiones que presentaba se las ocasionó al tratar de evitar su detención y que nadie le había golpeado. El Gobierno también indicó que durante los 30 días en los que permaneció arraigado, tuvo asistencia médica casi cada diariamente y recibió numerosas visitas por parte de familiares y personal de la CEDH. No se presentó ninguna denuncia por tortura pero se interpuso una queja ante la Comisión de Derechos Humanos del Distrito Federal que fue seguidamente transmitida a la

Comisión de Derechos Humanos del Estado de México. A petición de la Comisión se establecieron medidas oportunas a fin de garantizar los derechos del inculpado.

991. Por carta con fecha 5 de agosto de 2003, el Relator Especial, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, notificó al Gobierno que recibió más información sobre **Samuel Castellanos Piñón**, su asistente **Beatriz Casa Arellanas** y otros **miembros de la Acción de los Cristianos para la Abolición de la Tortura (ACAT)–Oaxaca**. El Relator Especial y la Representante Especial enviaron dos llamamientos urgentes el 6 de marzo y el 23 de abril de 2003 respectivamente (véanse *infra*). De acuerdo con la nueva información recibida, el 28 de abril de 2003, estas personas habrían recibido una carta conteniendo una tercera amenaza de muerte contra Samuel Castellanos Piñón y su equipo. Además de amenazas contra miembros del ACAT-Oaxaca, dicha carta también transmitiría amenazas contra miembros de la Organización Indígena de Derechos Humanos de Oaxaca (OIDHO) y del Comité de Derechos del Pueblo (CODEP). A pesar de que la Comisión Interamericana de Derechos Humanos habría solicitado medidas adecuadas para las personas en peligro, las autoridades mexicanas no las habrían tomado. No se habría abierto ninguna investigación sobre las amenazas de muerte recibidas por los miembros de las organizaciones arriba mencionadas. La CEDH habría solicitado informalmente a la PGJE que se tomen las medidas de seguridad necesarias. Sin embargo, la CEDH no habría emitido ninguna solicitud formal al respecto.

992. El Gobierno proporcionó información sobre este caso por cartas con fechas 6 de marzo, 23 de abril, 5 de noviembre y 9 de diciembre de 2003 (véase *infra*).

993. Por carta con fecha 7 de agosto de 2003, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, notificó al Gobierno que había recibido información según la cual **Francisco Medellín Alberto** habría fallecido el 28 de mayo de 2002, supuestamente tras haber sido sometido a malos tratos por miembros de la policía de Monterrey, Nuevo León. Su cadáver habría presentado marcas de tortura, contusiones en la cabeza y otras partes del cuerpo y sus uñas habrían sido arrancadas.

994. Por carta con fecha 5 de noviembre de 2003, el Gobierno informó que el 6 de agosto de 2002, el juez de la causa decretó auto de prisión en contra de tres agentes por su probable responsabilidad en delitos de abuso de autoridad, tortura y homicidio. El 13 de octubre de 2002, el juez dictó auto de prisión en contra de otro agente por las mismas causas. Cuando el Gobierno transmitió esta comunicación, el procedimiento se encontraba en la etapa de instrucción. El Gobierno también indicó que el 1.º de julio de 2002, la concubina de Francisco Medellín Alberto recibió apoyo económico por parte de la Procuraduría General de Justicia del Estado de Nuevo León.

995. Por carta de fecha 14 de octubre de 2003, el Relator Especial recordó al Gobierno dos casos transmitidos en 2002 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

996. El 14 de febrero de 2003, el Relator Especial envió un llamamiento urgente, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la independencia de los magistrados y abogados, respecto a la situación de inseguridad en la que se encontrarían **Gustavo González Meza** y su esposa **Blanca Guadalupe López**, así como **Víctor Javier García** y su esposa **Miriam García**, quienes habrían sido víctimas de una serie de amenazas de muerte y actos de intimidación. El 9 de noviembre de 2001, Víctor Javier García y Gustavo González Meza fueron detenidos por un grupo de personas enmascaradas no identificadas en Ciudad Juárez, Estado de Chihuahua (véase la comunicación enviada el 4 de junio de 2003 *supra*). Desde que Gustavo González Meza y Víctor Javier García fueron detenidos, sus familiares habrían reivindicado reiteradamente su inocencia y habrían interpuesto una denuncia ante las autoridades del Estado por su detención y tortura, por tal motivo serían víctimas de una serie de amenazas. En cuanto a **Mario Escobedo Anaya**, abogado de Gustavo González Meza, se informó que habría muerto por disparos a manos de la policía judicial del Estado. Según los informes oficiales, la policía habría actuado en defensa propia porque el abogado habría disparado primero. Según otros informes, esta versión se contradice con la de testigos que afirman que Mario Escobedo Anaya no disparó a la policía. Dichos acontecimientos se habrían producido a pesar de que la Comisión Interamericana de Derechos Humanos dictó medidas de protección para Miriam García, Blanca Guadalupe y su abogado en septiembre de 2002. Asimismo se informó de que el 8 de febrero de 2003, Gustavo González Meza habría sido hallado muerto en su celda en la prisión de máxima seguridad de Chihuahua. Según los responsables de la prisión, murió como resultado de un coágulo sanguíneo tras haber sido operado de una hernia. Sin embargo, no se conocerían los resultados de la autopsia, y existiría preocupación de que su muerte haya sido resultado de las torturas a las que fue sometido tras su detención en 2001.

997. Por cartas de fecha 28 de octubre y 11 y 17 de noviembre de 2003, el Gobierno proporcionó más información sobre este caso (véase también una respuesta previa del Gobierno *supra*). Al presentar una hernia, el 6 de febrero de 2003, previa autorización de Gustavo González Meza, se le practicó una intervención quirúrgica. El detenido no presentó complicaciones postoperatorias y no comunicó a las autoridades penitenciarias ningún malestar. Sin embargo, fue encontrado sin vida en su celda el 8 de febrero de 2002. El certificado de autopsia precisa que la causa de muerte era una tromboembolia cardiopulmonar, coagulación intravascular diseminada y hemangiomas múltiples. El Gobierno también informó de que el 10 de septiembre de 2002, la CIDH solicitó al Gobierno de México la implementación de medidas cautelares a favor de Blanca Guadalupe López, Víctor Javier García Uribe y Miriam García Lara. A pesar de que la vigencia de dichas medidas había caducado, el Gobierno las continuaba otorgando mediante rondines policíacos en el exterior de sus domicilios. Finalmente, el Gobierno indicó que a solicitud de Miriam García, se estaba gestionando el traslado de Víctor Javier García Uribe del Centro de Readaptación Social del Estado de Chihuahua a otro en Ciudad Juárez.

998. El 6 de marzo de 2003, el Relator Especial envió un llamamiento urgente, 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, respecto a la situación de **Samuel Alfonso Castellanos** y **Beatriz Casas Arellanas**, abogados y miembros de la organización ACAT-Oaxaca, **Carlos Cruz Mozo** e **Inocencio López Michel**, miembros de la OIDHO (véase también la comunicación enviada el 5 de agosto de 2003 *supra* y el llamamiento urgente enviado el 23 de abril de 2003 *infra*). Se alega que una carta conteniendo amenazas de muerte contra estas personas habría sido encontrada el 1.º de marzo de 2003 en la oficina de ACAT-Oaxaca. Este mismo día tres desconocidos armados habrían seguido a Samuel Castellanos tras esperarle en la puerta de las oficinas de ACAT-Oaxaca. Estas amenazas e intimidaciones habrían sido el objeto de una denuncia ante la PGJE y la CEDH. La carta de amenazas supuestamente presionaba a los trabajadores de ACAT para que dejaran de trabajar en el caso de 16 personas que habrían sido torturadas y acusadas de la matanza que tuvo lugar en Agua Fría a inicios de 2002. Mientras seis de ellas habrían obtenido la libertad condicional, las otras todavía permanecerían bajo custodia. En octubre de 2002, Samuel Alfonso Castellanos y Beatriz Casas Arellanas se habrían convertido oficialmente en abogados defensores de los acusados, impugnando su detención y denunciando su tortura. En febrero de 2003, después de que los tribunales hubieran concedido un recurso a favor de las 10 personas que permanecían detenidas, Samuel Castellanos habría denunciado públicamente supuestas irregularidades y violaciones de los derechos humanos en el proceso en contra de estas 16 personas.

999. El 23 de abril de 2003, el Relator Especial envió otro llamamiento urgente, juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Representante Especial sobre la independencia de los magistrados y abogados, en relación con la situación de **Samuel Alfonso Castellanos Piñón** y otros miembros de la oficina regional en Oaxaca de ACAT y de la OIDHO. Según nueva información, Samuel Alfonso Castellanos Piñón habría recibido otra amenaza de muerte anónima el 31 de marzo de 2003.

1000. Por cartas con fechas 6 de marzo, 23 de abril, 5 de noviembre y 9 de diciembre de 2003, el Gobierno proporcionó información sobre el caso de Samuel Alfonso Castellanos Piñón y los otros miembros de ACAT y de la OIDHO. El Gobierno informó que, tras una queja por parte de la CEDH de Oaxaca, a partir del 4 de marzo de 2003 se implementó una medida cautelar en vía de colaboración con la Procuraduría General de Justicia del Estado de Oaxaca y a la Dirección general de Seguridad Pública del Estado para brindar seguridad pública a los peticionarios y para que se diera inicio a las investigaciones correspondientes. A partir del 5 de marzo de 2003, el jefe operativo de la policía preventiva del Estado implementó rondines periódicos de vigilancia en los domicilios de Samuel Alfonso Castellanos, Beatriz Casas Arellanes, Carlos Cruz Mozo e Inocencio López Michel así como en sus oficinas y ordenó a personal bajo su mando que se constituyera en dichos domicilios y oficinas y se entrevistara con las personas afectadas a fin de proporcionarles un servicio de escolta consistente en recorridos de vigilancia en sus centros de trabajo y sus domicilios particulares. Además, la autoridad ministerial local inició una investigación en contra de los posibles responsables de delitos de amenazas y demás. Finalmente, el Gobierno informó que se había iniciado una averiguación previa con motivo de la denuncia presentada por Samuel Alfonso Castellanos.

1001. El 26 de mayo de 2003, el Relator Especial envió un llamamiento urgente sobre la situación de **Guadalupe Hernández Arizmendi**, un campesino de la comunidad La Unión, municipio de Ayutla de los Libres, Guerrero, y militante del Partido de la Revolución Democrática. Habría sido detenido en su domicilio el 21 de mayo de 2003 por supuestos agentes de la Agencia Federal de Investigaciones (AFI). Desde entonces, se desconocía su paradero. Sus familiares habrían acudido a la oficina del ministerio público de Ayutla de los Libres, donde se les habría negado la posibilidad de registrar su declaración.

1002. Por carta con fecha de 15 de agosto de 2003, el Gobierno informó de que fue detenido con motivo de órdenes de localización y presentación libradas por el ministerio público. El Gobierno también indicó que se practicó el Dictamen Médico/Psicológico Especializado para Casos de Posible Tortura o Maltrato, basado en el Protocolo de Estambul. Según las conclusiones de dicho examen, Guadalupe Hernández Arizmendi no presentaba síntomas de estrés postraumático ni de depresión y su caso no era compatible con ninguna de las hipótesis previstas en el artículo 3 de la Ley Federal para Prevenir y Sancionar la Tortura.

Seguimiento de comunicaciones transmitidas previamente

1003. Por cartas con fecha 18 de diciembre de 2002 y 10 de noviembre de 2003, el Gobierno proporcionó al Relator Especial una copia de las presentaciones realizadas por el Fiscal Especial en relación con el caso de **Digna Ochoa** (E/CN.4/2002/76/Add.1, párrs. 1027 y 1028) ante la Comisión Interamericana de Derechos Humanos el 18 de octubre de 2002 y el 20 de octubre de 2003. El Gobierno remitió detallada información sobre este caso e informó de que, el 18 de julio de 2003, la Fiscalía creada especialmente para examinar este caso propuso el no ejercicio de acción penal al no demostrarse plenamente la existencia del delito de homicidio. Esta resolución encuentra soporte en los análisis de peritos en materia de psicología y estudio psicodinámico de la personalidad y fue autorizada por el coordinador de agentes auxiliares del procurador el 17 de septiembre de 2003.

1004. Por carta con fecha de 13 de noviembre de 2002, el Gobierno contestó a una comunicación enviada por el Relator Especial el 15 de agosto de 2001 (ibíd., párrs. 949 a 1018) y proporcionó información sobre los casos individuales siguientes.

1005. En relación con el caso de **Andrés Tzompatyi Tecpile** y otros (ibíd., párr. 994), el Gobierno indicó que la recomendación 100/97 de la Comisión Nacional de Derechos Humanos (CNDH) enviada al Procurador General de Justicia Militar se consideraba totalmente cumplida.

1006. En relación con el caso de **Teodoro Juárez Sánchez** y otros (ibíd., párr. 995), el Gobierno indicó que la recomendación 96/97 de la CNDH enviada al Procurador General de Justicia Militar se consideraba parcialmente cumplida.

1007. En relación con **José Merced González Mariano** (ibíd., párr. 1003), el Gobierno indicó que la recomendación 31/97 de la CNDH enviada al Procurador General de Justicia Militar se consideraba totalmente cumplida. Una vez investigados los hechos, se determinó que en los mismos no había participado personal militar y que habían sido cometidos por civiles. Se remitió un desglose de esta averiguación al Ministerio Público Federal y del Fuero Común, en Guadalajara, Jalisco. Por otra

parte, se determinó igualmente que no existía responsabilidad administrativa por parte de dos militares en contra de quienes se inició y determinó procedimiento administrativo en relación con el caso.

1008. En relación con **José Rosario Pachecho Duarte y Jesús Daniel Ávalos Romero** (ibíd., párr. 1004), el Gobierno indicó que la recomendación 32/97 de la CNDH enviada al Procurador General de Justicia Militar se consideraba totalmente cumplida. En una averiguación previa se resolvió ejercitar acción penal contra un general y un capitán por su probable responsabilidad en la comisión de delito de violencia contra personas causándoles lesiones y, en el caso del general, por su probable responsabilidad en la comisión del delito de infracción de deberes comunes a todos los que están obligados a servir en el Ejército, en su modalidad de dar parte en contrario a lo que se sepa. Otra averiguación previa en contra de los mencionados determinó que no se acreditaron delitos de violación y tortura. En el procedimiento administrativo iniciado por el Procurador General de Justicia Militar se resolvió que no había lugar para fincar responsabilidad administrativa.

1009. En relación con el caso de **Abelardo Gastelum Romero** y otros (ibíd., párr. 1005), el Gobierno indicó que la recomendación 85/97 de la CNDH enviada al Procurador General de Justicia Militar se consideraba totalmente cumplida en el curso del año 2002.

1010. En relación con el caso de **Jorge Agustín Bustamante de la Mora** (ibíd., párr. 1006), el Gobierno indicó que la recomendación 86/97 de la CNDH enviada al Procurador General de Justicia Militar se considera totalmente cumplida. A través de un procedimiento administrativo se resolvió que se encontraba prescrita la facultad para imponer sanciones respecto a las conductas imputadas a dos militares.

1011. En relación con el caso de **Oswaldo Gómez Contreras** (ibíd., párr. 1007), el Gobierno indicó que la recomendación 87/97 de la CNDH enviada al Procurador General de Justicia Militar se consideraba totalmente cumplida. Se ejercitó acción penal contra un capitán segundo retirado, un capitán segundo auxiliar y un teniente de infantería, por delitos de violencia contra las personas causando lesiones y tortura. El 30 de marzo de 1999, el quejoso recibió una indemnización por concepto de reparación.

1012. En relación con **Luis Ortiz Chagoya** (ibíd., párr. 1014), el Gobierno confirmó que el joven fue detenido pero indicó que no fue torturado durante su detención. De los certificados médicos, no se desprendían lesiones o huellas de violencia física reciente. La CEDH de Michoacán emitió un acuerdo de no responsabilidad puesto que no se acreditaron los actos consistentes de tortura o lesiones físicas.

1013. Por otra carta con fecha de 13 de noviembre de 2002, el Gobierno contestó a una comunicación enviada por el Relator Especial el 2 de septiembre de 2002 (E/CN.4/2003/68/Add.1, párrs. 846 a 861) y proporcionó más información sobre los casos individuales siguientes.

1014. En relación con el caso de **38 personas en Aguascalientes** (ibíd., párr. 847), el Gobierno indicó que tanto la Procuraduría General de Justicia del Estado de Aguascalientes como la Procuraduría de Protección Ciudadana de Derechos Humanos

informaron que, después de realizar una búsqueda exhaustiva en los registros de esas dependencias, se estableció que no existía ninguna queja por los hechos señalados a petición de la parte agraviada.

1015. En relación con **Guillermo Vélez Mendoza** (ibíd., párr. 848), el Gobierno indicó que a la fecha se encontraban pendientes de emitirse los dictámenes complementarios en materia de patología del perito de la coadyuvancia y el correspondiente al Servicio médico forense del Distrito Federal, por lo que aún no se estaba en posibilidad de determinar si las lesiones presentadas fueron infligidas por actos de tortura. Se iniciaron averiguaciones previas por delito de homicidio ante la Fiscalía especializada para la atención de delitos cometidos por servidores públicos de la PGR. Fueron posteriormente remitidas a la competencia de la Dirección general de protección a los derechos humanos de la PGR. Del resultado de las investigaciones se señalan a cinco agentes de la AFI como probables responsables de delitos de tortura. Cuatro de ellos se encontraban internos en el Reclusorio preventivo varonil Sur de la Ciudad de México y se estaban llevando a cabo las gestiones necesarias para dar cumplimiento a la orden de aprehensión en contra del quinto. El Gobierno informó igualmente de que además del proceso penal, el órgano de control interno de la PGR inició una queja. Ésta se encontraba en trámite. Finalmente, el Gobierno informó que se solicitó reparación del daño, sin que se haya determinado la cantidad de dicha reparación.

1016. En relación con el caso de **Pueblos Unidos del Rincón de la Sierra** (ibíd., párr. 849), el Gobierno indicó que se han iniciado tres averiguaciones previas ejercitándose acción penal en contra de varias personas como probables responsables de delitos de abuso de autoridad y privación ilegal de libertad y del delito doloso de lesiones. Se libró orden de aprehensión en contra de varias de ellas. El Gobierno informó igualmente de que los procesos iniciados todavía se encontraban en etapa de instrucción.

1017. En relación con el caso de **Eustacio Yáñez Ledesma** (ibíd., párr. 852) sobre el cual el Gobierno ya proporcionó información (ibíd., párr. 853), el Gobierno indicó que según varios exámenes médicos, no se hallaron huellas de violencia física en su contra. Las lesiones que presentaba fueron aparentemente causadas por el accidente de tránsito en el que estuvo involucrado antes de su detención. El Gobierno informó igualmente de que una averiguación previa estaba en curso ante la Agencia del ministerio público especializada en la investigación de delitos contra la integridad personal.

1018. En relación con el caso de **Faustino Jiménez Álvarez** (ibíd., párr. 856), sobre el cual el Gobierno ya proporcionó información (ibíd., párr. 857), el Gobierno indicó que el 1.º de agosto de 2001, la CIDH determinó otorgar medidas cautelares en su favor. Se iniciaron investigaciones ante la Procuraduría General de Justicia de Guerrero y el 19 de octubre de 2001 se ejercitó acción penal en contra de dos personas solicitándose el libramiento de las correspondientes órdenes de aprehensión. La averiguación, que se encontraba en etapa de integración, se inició con motivo de su supuesta detención arbitraria y desaparición, pero no por actos de tortura. Además, el Gobierno clarificó que las supuestas amenazas de muerte en contra de su mujer no constaban en ninguna de las declaraciones rendidas ante el ministerio público.

1019. Por carta con fecha de 29 de noviembre de 2002, el Gobierno proporcionó información sobre el caso de **Alfonso Martín del Campo Dodd**, incluido en una comunicación enviada por el Relator Especial el 15 de agosto de 2001 (E/CN.4/2002/76/Add.1, párr. 1012). El Gobierno indicó que este caso estaba siendo tramitado ante la CIDH, que el 30 de octubre de 2002 emitió un informe confidencial responsabilizando al Gobierno de México por diversas violaciones de derechos humanos. En este contexto, la Cancillería y la Procuraduría General de Justicia del Distrito Federal iniciaron un análisis de las vías jurídicas que permitían dar cumplimiento a las recomendaciones decretadas por ese órgano.

1020. Por carta con fecha 14 de noviembre de 2003, el Gobierno proporcionó más información sobre **Valentina Rosendo Cantú**, cuyo caso fue el objeto de un llamamiento urgente enviado por el Relator Especial, juntamente con la Relatora Especial sobre la violencia contra la mujer y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias el 14 de marzo de 2002. El Gobierno ya contestó a este llamamiento urgente por carta con fecha de 14 de marzo de 2002. (E/CN.4/2003/68/Add.1, párrs. 867 y 868). En su nueva comunicación, el Gobierno indicó que en diciembre de 2002, la investigación adelantada por la CNDH determinó no contar con pruebas determinantes que permitieran concluir que la víctima hubiera sido objeto de una agresión sexual por parte de elementos del Ejército. La Procuraduría General de Justicia Militar también adelantó una investigación previa, dentro de la cual recibió las declaraciones del médico general y la trabajadora social del hospital de Ayutla de los Libres. Según tales testimonios, Valentina Rosendo Cantú nunca habría hecho referencia a golpes o violación por parte de ninguna persona. El Gobierno también informó de que se realizaron diligencias de confrontación para el reconocimiento físico de 30 integrales de la base de operaciones Ríos, la cual se encontraba operando el 16 de febrero de 2002. Asimismo, 31 fotografías del personal militar que integraba la base de operaciones Hernández, fueron puestas a la vista de la víctima sin que se hubiese reconocido a ninguno de ellos como agresor. El Gobierno también indicó que ciertos testimonios ponían en duda la ocurrencia de los hechos. Finalmente, el Gobierno informó de que, al no existir evidencias que corroboren los hechos objeto de la denuncia, el agente del ministerio público se encontraba constitucional y legalmente impedido para ejercitar alguna acción penal.

Mongolia

1021. On 9 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health concerning **Enkhbat Damiran**. He is reportedly a prisoner at Abdarant prison, held on suspicion of murder of a prominent politician. A Mongolian national, he was allegedly beaten, drugged, and forcibly returned to Mongolia from France by Mongolian intelligence officers on 15 May 2003. Mr. Damiran was allegedly held incommunicado at the General Intelligence Agency (GIA) headquarters in Ulaanbaatar for several days. Officers there allegedly shone bright lights in his eyes and forced him to listen to the cocking and firing of a handgun in an unsuccessful attempt to coerce him into confessing to the murder. He is allegedly denied access to adequate medical treatment for a damaged liver and pancreas, conditions which may be life-threatening. He is also allegedly not permitted to see his lawyer.

Morocco

1022. Par une lettre datée du 24 septembre 2003, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

1023. **Salek Bazeid** aurait été arrêté, le 24 septembre 2002, à son domicile dans le Sahara occidental par sept policiers en civil. Alors qu'il demandait à voir les plaques d'identification des policiers, ces derniers l'auraient frappé devant sa mère, qui aurait également été frappée. Ils auraient tous les deux été traînés dans la rue. Sa sœur aurait été jetée à terre à deux reprises alors qu'elle tentait de l'approcher. Il aurait été conduit dans les locaux de la police judiciaire où il aurait été brutalisé par le commissaire principal. Il aurait ensuite été transféré au Poste de commandement compagnies mobiles d'intervention (PC-CMI) où il serait resté 24 heures sans boire ni manger. Il se serait évanoui et aurait été transporté à l'hôpital où un médecin aurait refusé de l'admettre. Il aurait alors été reconduit au PC-CMI, où il aurait de nouveau perdu connaissance. Le lendemain matin, on lui aurait présenté un procès-verbal, mais, n'ayant fait l'objet d'aucun interrogatoire, il aurait refusé de le signer.

1024. **Salka Nassiri**, militant de la Section Sahara du Forum marocain vérité et justice, aurait été arrêté en juin 2002 à Rabat alors qu'il s'était rendu dans un commissariat pour y renouveler sa carte d'identité. Il aurait alors été informé qu'il était recherché depuis les émeutes de Smara en novembre 2001, à l'occasion desquelles la police serait intervenue brutalement pour disperser les manifestants. Il aurait été transféré à Casablanca puis à Laayoune dans les locaux de la police judiciaire, où il aurait été soumis au supplice dit de l'avion, par lequel une personne est attachée par les pieds et les mains à un bâton en suspension et un poids est posé sur les reins pour tirer sur les articulations des épaules et des hanches.

1025. **Mohamed Lamin Ali Lahbib Bourhil** aurait été arrêté le 24 septembre 2002 et conduit au commissariat de Laayoune. Il aurait eu les yeux bandés, les mains attachées et un chiffon imbibé d'urine aurait été posé sur son nez et sa bouche. Ses parents n'auraient pas pu lui rendre visite au commissariat ni lui remettre de la nourriture.

1026. **Juan Antonio Solana Marcos**, ressortissant espagnol, aurait été arrêté le 24 janvier 2000 au port douanier de Tanger et conduit au commissariat central de Tanger où il aurait été inculpé pour possession et trafic de drogue. Il aurait été victime d'abus sexuels par deux inspecteurs ainsi que par plusieurs autres agents de police et aurait été frappé par le responsable du commissariat. Il aurait été condamné par le tribunal de première instance de Tanger le 3 février 2000. La cour d'appel de Tanger aurait confirmé la culpabilité de la victime mais aurait réduit sa peine à huit ans d'emprisonnement.

Suite donnée aux plaintes signalées dans des communications précédentes

1027. Par une lettre datée du 31 janvier 2003, le gouvernement a répondu à un appel urgent envoyé par le Rapporteur spécial le 2 septembre 2003, au sujet duquel une réponse avait déjà été transmise (E/CN.4/2003/68/Add.1, par. 900 et 901). Le gouvernement a informé que **Belkacem Hakimi** avait été atteint d'une hernie discale suite à des exercices sportifs. Contrairement aux conseils du médecin spécialiste de l'hôpital, il aurait refusé de se faire opérer suite à l'instabilité de son état moral. Un

traitement et des séances de rééducation médicale auraient alors été prescrits et fournis au sein de l'hôpital en l'attente de ladite opération chirurgicale.

Observations

1028. Le Rapporteur spécial voudrait attirer l'attention sur certaines préoccupations exprimées par le Comité contre la torture (CAT/C/CR/31/2, par. 5) et en particulier sur l'extension considérable du délai de garde à vue, période pendant laquelle le risque de torture est le plus grand, tant dans le droit pénal général que dans la loi antiterroriste, qui est intervenue postérieurement à l'examen du deuxième rapport périodique; l'absence, pendant la période de garde à vue, de garanties assurant un accès rapide et approprié à un avocat et à un médecin, ainsi qu'à un membre de la famille des personnes gardées à vue; et l'absence d'une disposition de droit pénal interdisant que toute déclaration obtenue sous la torture soit invoquée comme un élément de preuve dans une procédure.

1029. Le Rapporteur spécial voudrait également attirer l'attention sur les préoccupations exprimées par le Comité des droits de l'enfant (CRC/C/15/Add.211, par. 42) qui indiquent qu'apparemment les châtiments corporels sont toujours assez couramment pratiqués à l'école.

Mozambique

1030. By letter dated 17 September 2003, the Special Rapporteur advised the Government that he had received information concerning **Vasco Juiz**, over 50 years old, and his 23-year-old son **Virgilio Vasco Nhabinde**. They were reportedly arrested at their home in Bairro Jardim in central Maputo on 1 October 2002 and taken to the 17th Police Station. Vasco Juiz was reportedly beaten severely with sticks, gun butts and other instruments, resulting in severe bruising and abrasions on his back, buttocks and arms. Virgilio Vasco Nhabinde was reportedly subjected to more severe treatment in three separate sessions. He is said to have sustained many injuries, including severe swellings and bruising, resulting in bleeding from the mouth and loss of consciousness. Vasco Juiz was reportedly released from police custody on 7 October 2002. On the same day, Virgilio Vasco Nhabinde was reportedly transferred to the custody of the Criminal Investigation Police and later to the Maximum Security Prison in the suburb of Machava. Police allegedly refused requests from the family to send Virgilio Vasco Nhabinde to hospital on the grounds that he might escape and he is reported to have received no medical attention. A habeas corpus petition was reportedly filed on behalf of Virgilio Vasco Nhabinde with the Maputo City Court by a human rights organization on 7 October 2002. He is reported to have been released on 21 October 2002.

Urgent appeals

1031. On 11 December 2003, the Special Rapporteur sent an urgent appeal concerning **Mamade Assif Abdul Satar, Ayob Abdul Satar, Vicente Narotam Ramaya, Carlitos Cassamo, Manuel Fernandes** and **Aníbal dos Santos Júnior**. They are reportedly imprisoned in separate cells of Maputo's Maximum Security Prison. It is alleged that Ayob Abdul Satar, Vicente Narotam Ramaya, Carlitos Cassamo, Manuel Fernandes and Aníbal dos Santos Júnior have been held in foot-cuffs and Mamade Assif Abdul Satar shackled with chains since 8 December 2003.

Whenever prisoners bend their knees, the foot-cuffs and chains reportedly press into their flesh, allegedly causing severe pain. According to the information received, the prisoners are able to shuffle to a urinal but try to avoid defecating because sitting causes pain. It is reported that prisoners are not able to sleep at night since guard dogs placed outside their cell continually bark. The above-named individuals have reportedly been denied visits from their relatives for months. It is reported that Ayob Abdul Satar has not received medical attention for infected gums.

Observations

1032. The Special Rapporteur considers it appropriate to draw attention to the concerns of the Committee on the Rights of the Child (CRC/C/15/Add.172, paras. 38, 72), which indicated that corporal punishment is widely practised in the home, in schools and in other public institutions, such as prisons. It expressed concern that illegal detention of minors and violence by police, though decreased, still continue, and that the detention of minors persists due to the poor training and ignorance of legal norms on the part of the policemen involved, and that minors are incarcerated with adult detainees.

Myanmar

1033. By letter dated 1 October 2003, the Special Rapporteur advised the Government that he had received information, concerning **Nai La**, a 78-year-old farmer. He was reportedly arrested on 4 March 2003 for failing to meet the paddy quota. He was reportedly held in detention for three nights at the Tarana police post in Kyeikmayaw Township, and later transferred to Nyaung Pi Zoet Police Station on 7 March 2003. It is alleged that on the night of 7 March, Nai La was beaten and kicked by Deputy Sub-Inspector inside his cell until he passed out. It is also alleged that Nai La was sent to Kyeikmayaw hospital in critical condition on 8 March 2003. It is believed that the police held a disciplinary tribunal on 11 March 2003 at which the above-mentioned Sub-Inspector was present. According to the information received, the disciplinary tribunal found that the Sub-Inspector was drunk on the night of 7 March and that legal action should be taken against him.

1034. By letter dated 1 October 2003, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information, concerning **U Sai Pa**, a 61-year-old, said to have been the Deputy Chairman of the National League for Democracy (NLD) of the Shan State. He was reportedly arrested along with **Sai Nan Di**, another alleged NLD leader, on 13 or 14 September 2002 in Kengtung, eastern Shan State. U Sai Pa reportedly died on 9 October 2002 after being taken to hospital on the evening of 8 October, when he was already unconscious and near death. He allegedly become weak after being deprived of sleep during interrogation and reports indicated that he did not receive proper medical treatment after becoming ill. According to the report, following the post-mortem examination the cause of death was said to be due to septicaemia and hepatic encephalopathy caused by cirrhosis of liver.

1035. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996, 1997, 1998, 2000, 2001 for which no responses had been received.

Urgent appeals

1036. On 18 July 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the situation of human rights in Myanmar, concerning human rights defenders and members of Parliament-elect from Mandalay Division, who were reportedly attacked on 30 May 2003. It is believed that at least 130 people who were among those attacked have since remained missing or in detention, including the party secretary **Daw Aung San Suu Kyi**, who is still held in incommunicado detention. In this context, **U Khin Win**, **U Maung Maung** and **Ko Than Aung**, three National League for Democracy (NLD) organizers, and **Ko Aung Thein Myint**, a NLD youth member from Magway Division, were reportedly arrested on 6 and 8 July. On 5 July, **Than Tun**, **Kyaw Kyaw Lwin**, **Aung Than**, **Kyaw Kyaw**, **U Hnout Khan Hmwe** and **Win Naing** were reportedly arrested for distributing leaflets also related to the same incident. Furthermore, it is reported that U Soe Win, a NLD Member of Parliament, allegedly detained on 30 May and released on 29 June, is in a critical state of health as a result of his treatment in detention. In view of the incommunicado nature of the detention of most of the persons arrested in relation with the 30 May incident, fears were expressed that the above-named persons may be at risk of torture and other forms of ill-treatment.

1037. By letter dated 1 September 2003, the Government reported that the incident broke out when the lawless practices of Daw Aung San Suu Kyi's supporters gave rise to disturbances and clashes between the militant NLD members and the local populace, who have strong feeling against her. It is not correct that the members of the National League for Democracy (NLD) were deliberately attacked in the incident. After the police and security officers regained control of the situation, the total of 136 persons, including those who were hospitalized, were held under temporary custody for necessary interrogation. Since then, a total of 96 persons have been sent home. Only 8 persons remain in the hospital. The names of the persons who have been sent home are already conveyed to the Special Rapporteur on the situation of human rights in Myanmar, Paulo Sergio Pinheiro. Therefore, it is incorrect that at least 130 people who were among those attacked have since then remained missing or in detention as claimed in the Special Rapporteur's letter. Regarding the allegation concerning detention of U Khin Win, U Maung Maung, Ko Than Aung and Ko Aung Thein Myint, they were summoned on 6 and 8 July for questioning in connection with inciting the NLD members in Magwe Division and not for their petition to the Government to release the NLD members and supporters. They have been sent home on 21 July 2003. There are no persons by the name of Than Tun, Kyaw Kyaw Lwin, Aung Than, Kyaw Kyaw, U Hnount Khan Hmwe and Win Naing, who are under custody in connection with 30 May incident or with any other cases. The information that they were reportedly arrested on 5 July for distributing leaflets is incorrect. Furthermore, reported the Government, U Soe Win has never been detained. He was summoned for necessary interrogation about the incident to clarify whether the NLD and Daw Aung San Suu Kyi's activities leading to the incident were premeditated. He was in poor health even before he was summoned for questioning. The authorities arranged all the necessary medical treatment for him and the doctors visited him on daily basis during the inquiry. In this case, U Soe Win can be directly contacted to confirm this information. The Special Representative of the Secretary-General and the ICRC chief delegate were allowed

to meet with Daw Aung San Suu Kyi. The ICRC delegation was allowed to interview all the detainees including U Tin Oo. The Government also reported that all the actions taken by the authorities are in strict observance of the existing Myanmar laws and those actions are, therefore, not arbitrary. Myanmar laws do not allow any kind of torture and other forms of ill-treatment. The right to physical and mental integrity of all the persons concerned have been protected by the authorities concerned of Myanmar.

1038. On 25 July 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the situation of human rights in Myanmar, concerning the alleged arrest of four journalists of a sports weekly. The Military Intelligence reportedly raided the offices of the newspaper *First Eleven* on 17 July 2003 and handcuffed and detained journalists **Than Htut Aung, U Zaw Myint and Soe Pa Pa Hlaing** as well as the chief editor **U Zaw Thet Htew**, who was allegedly beaten during his arrest. It is further reported that the four were taken away by Military Intelligence in an undisclosed location. Later the same day, soldiers reportedly arrested the wife of U Zaw Thet Htew, who works for the privately-owned magazine *Living Colour* and released her after a few hours. Than Htut Aung and U Zaw Myint were apparently released on 19 July, while Soe Pa Pa Hlaing and U Zaw Thet Htew are allegedly still being held in an undisclosed location. In view of the reported incommunicado detention at an undisclosed location of Soe Pa Pa Hlaing and U Zaw Thet Htew, and allegations according to which the latter was beaten during his arrest, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

1039. By letter dated 10 October 2003, the Government reported that Soe Pa Pa Hlaing has already been sent home by the authorities after interrogation. The *First Eleven* journal and the *Living Colour* magazine continue to be published regularly. U Zaw Thet Htew was arrested on 17 July 2003, and has been found to be an accomplice with the members of subversive groups, who conspired to disrupt peace and stability in the country. Necessary steps are being taken to take action against him under the existing Myanmar laws.

Follow-up to previously transmitted communications

1040. By letters dated 20 December 2002, 13 January 2003, 24 February 2003 and 26 March 2003, the Government provided further information, concerning a joint letter sent with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on violence against women on 1 October 2002 regarding incidents of violence against women by the armed forces (E/CN.4/2003/68/Add.1, paras. 905-978).

1041. Concerning **Maw Plu Meh** (ibid., para. 906), the inquiry showed that a woman by the of "Naw Plu Meh" or a similar name has never resided in that village, and there never was a rape case in the village.

1042. Concerning **Naw Paw Lweh and Paw Lweh's Aunt** (ibid., para. 907), the inquiry showed that neither Naw Paw Lweh nor her relatives reported any incident of rape, and there were no similar incidents in the village.

1043. Concerning **Naw Aye Yin** and **Naw Thein Za** (ibid., para. 908), the inquiry showed that there is Gar Lay Ke village, also known as Khat Kwa was located 12 miles northeast of Kyar Inn Seikkyi. Two dead bodies of women were found outside of Khat Kwa village. According to a villager and the Medical Warrant Officer of the battalion, they did not appear to be raped. Following an identity parade of soldiers, a witness confirmed that the alleged perpetrators were not from the battalion. The villagers believed that incident was linked with insurgents.

1044. Concerning **Naw Khin Mya**, (ibid., para. 910), the inquiry showed that the Light Infantry Battalion No. 534 arrested Naw Khin Mya and U Thet Han to interrogate in connection with insurgents. Naw Khin Mya, other witness, and her relatives stated that they did not know anything about the alleged gang-rape by the soldiers of LIB No. 534.

1045. Concerning **Naw Lar Lu** and **Naw His His Thart** (ibid., para. 911), The inquiry showed that in the operation areas of the Infantry Battalions Nos. 280 and 285, there was no village under the name of Ta Lay Ko. The inquiry found out that the alleged incident did not happen.

1046. Concerning **Naw Chit Bay** (ibid., para. 913), the inquiry showed that on the alleged date, the battalion did not operate military operations and was stationed at its headquarter. There was no woman by the name of “Naw Chit Bay” in the village. The alleged incident did not happen.

1047. Concerning **Naw Ma U** (ibid., para. 914), the inquiry showed that Ba Hat village did not exist and there is “Ba Han” village in Than Taung Township. There was no woman by the name of “Naw Ma U” and the alleged incident never happened at the village. The Light Infantry Battalion No. 234 operated military operations in the areas, but the alleged incident did not happen.

1048. Concerning **Naw Mu Mu**, (ibid., para. 915), the inquiry showed that the alleged victim, “Naw Mu Mu” or some other person with a similar name did not live in Shwe Dee village. The alleged incident did not happen at Shwe Dee village nor at other surrounding villages.

1049. Concerning **Pay Moe**, (ibid., para. 916), the inquiry found that Light Infantry Battalion No. 421 carried out military operations in that area. There was no incident of rape by military personnel at the Shadaw Township. A woman by the name of “Ma Pay Moe” or any similar name does not exist in the villages of Shadaw Township. No such incident was reported nor there were similar incidents in the village.

1050. Concerning **Ma Pah Cho** (ibid., para. 917), the inquiry showed Light Infantry Battalion No. 66 carried out military operations at Ma U Bin and surrounding villages. Ma Pah Cho was friendly with the military personnel, and there was no report regarding an incident of rape.

1051. Concerning **Naw Htee Moo** (ibid., para. 918), the alleged victim, or one with a similar name did not exist in Shwe Dee village. The alleged incident did not happen there or in the surrounding villages.

1052. Concerning **Naw Paw Lu** and **Bu Myar** (ibid., para. 919 and 920), the inquiry showed that Hti Baw village does not exist in Pha Pon Township, Kayin State. There was a village of similar name, Hti Baw Khee village, but as there were only a few houses, the villagers decided to move to the Hti Baw Law village since 1978. The Light Infantry Battalion No. 230 did not carry out operations at Hti Baw Khee and Hti Baw Law villages.
1053. Concerning **Naw Mu Tu** and **Naw Mu Naung** (ibid., para. 921), the inquiry showed that there the alleged rapes was not heard nor has happened in the village.
1054. Concerning **Ma La Myint** and **Ma Kyunt**, (ibid., para. 923), the inquiry showed that on 14 October 1998. A member group of the anti-insurgent commando unit from Light Infantry Battalion No. 26 had an armed encounter with three insurgents. Ma Hla Myint and her niece were killed at the house in which the insurgents were hiding.
1055. Concerning **Naw Mu Tu**, (ibid., para. 924), the inquiry showed that Pa Wa Plaw village does not exist in Pulaw Townships or any other township of the Dawei District. There are villages of similar name like Pa Wat Kone and Pa Wat Pyar villages in Pulaw Township. A person by the name of “Naw Mu Tu” did not live in those villages. The military columns never operated through these villages.
1056. Concerning **Naw Kee Ker** (ibid., para. 925), the inquiry showed that Light Infantry Battalion No. 42 carried out military operations at Hline Bwe and Mya Wa Di during 1998. However, a village by the name of K'nye Chaw did not exist there. The alleged perpetrator did not serve in the battalion during the period of operations there.
1057. Concerning **Naw Khi Kyi** (ibid., para. 941), the inquiry discovered that Hay Tah Weh village mentioned in the allegation was found neither on the map nor on the ground.
1058. Concerning **Naw Pun na** (ibid., para. 942), The inquiry discovered that Shwe Kah Mang village was found neither on the map nor on the ground.
1059. Concerning **Naw Thsan Tin** (ibid., para. 945), The inquiry showed that the Light Infantry Battalion No. 440 carried out military operations in Lek Kauk Wa and surrounding villages, but that the alleged incident did not happen.
1060. Concerning **Naw The Moe**, **Naw Po Pree**, **Naw Per Say** and **Naw Thu** (ibid., para. 946). The inquiry showed that the Infantry Battalion No. 101 did not carry out military operations in Kayin State during the alleged period. There was no rape case and there was no Ta Po Kee village in the military operation areas.
1061. Concerning **Mi Than Aye** (ibid., para. 948), the inquiry showed that War Ta village did not exist in Ye Phyu Township. There was no such incident as alleged.
1062. Concerning **Naw Kaw La** and **Saw Nay Moo Moe** (ibid., para. 951), the inquiry discovered that Paung Aw Taw village was found neither on the map nor on the ground.

1063. Concerning **Maw Keh Lah**, (ibid., para. 954), the inquiry showed that the alleged perpetrator was not listed among the personnel of Light Infantry Battalion No. 427. A woman by the name of “Ma Maw Keh Lah” did not exist in Daw Draw Ku village. The alleged incident did not happen, and there is no rape case registered in the case file of the police station of the village.

1064. Concerning **Naw Paw Kyaw, Naw Kya Sein** and **Naw Tway Nyo** (ibid., para. 955) the inquiry showed that while the military battalion was stationed in the village there were no rape cases or reports of women being molested. Moreover, there were no women in the village by the names listed.

1065. Concerning **Mi Khin Htee** (ibid., para. 962), the inquiry showed that the person listed, did not live at Sin Swe Village. A group led by a lieutenant from Infantry Battalion No. 282 had been to Sin Swe Village to take over duties from the Light Infantry Battalion No. 273, but the alleged incident or other rape cases never happened in the area.

1066. Concerning **Mi San Htay** (ibid., para. 964), the perpetrator was Corporal Than Win. On that day he was heavily drunk, and tried to molest Mi San Htay. Her friends and other soldiers arrived before the crime was ever committed. After the incident, Corporal Than Win performed the traditional obeisance ceremony for Mi San Htay, her parents and the village elders, and they subsequently pardoned him. The battalion, however, demoted him to private rank and sentenced him to three months’ imprisonment with hard labour in a military prison.

1067. Concerning **Mi Htwe Yin** (ibid., para. 968), the inquiry showed that she was abducted and raped by a corporal, who was absent without leave. The Government reported that, at the request of Ma Htwe and her husband, the Deputy Warrant Officer promised not to take any action on the corporal, except that he would be transferred away in order that a similar incident would not occur again. Nevertheless, the corporal was put on trial at a Military Court after the No. (19) Military Control Command learned about the incident.

1068. Concerning **Ma Ma Sein** (ibid., para. 969), the inquiry showed that Kone Suu village does not exist in Lawpita. The alleged incident did not happen and there was no record at the police station of Loikaw Township.

1069. Concerning **Naw Moo Lah Aing** and **Ma Chi Win** (ibid., para. 970), the inquiry showed that two unidentified men raped Moo Lah Aing and Ma Cho Win about 6 p.m. on a day in February 2002 at a place about 1,500 yards from the village. They did not report the incident to the village authorities, the military column, or the police station.

1070. Concerning **Naw Leh Say** and **Naw Moo Moo** (ibid., para. 971), the inquiry showed that Pa Na Mi Village does not exist in Dawei District, though there is a Pa Nan Pon village which is in Ye Phyu Township. Naw Leh Say and Naw Moo Moo did not live in that village. The alleged incident did not happen in the village.

1071. Concerning **Naw Ta Sei** (ibid., para. 972), the inquiry showed that Naw Ta Sei and her mother Daw Tun Mya were questioned by the military at the residence of

a religious teacher about men who had fled the village. The alleged incident did not happen in the village.

1072. Concerning **Naw Paw Gay** (ibid., para. 973), the inquiry showed the Infantry Battalion No. 83 arrived at Ka Toe Hta via Kya Ka Wa and Aung Haine village on March 2002, but not Infant Battalion No. 77 as alleged. The column stayed two days at the village and left to Mi Pha Lain village. About 50 villagers helped to transport ammunitions and food of the column to Mi Pha Lain and were paid 8,000 kyats for their labour. Naw Paw Gay, died a natural death on October 2002.

1073. Concerning **five Mon villagers**, (ibid., para. 975), the National Intelligence Bureau has carried out investigations which confirmed that five members of a family were shot and killed. The crime was committed by a lone private of Infantry Battalion No. 62. He went to the house in the village, shot the people in the house as well as himself due to mental distress. The soldier died of his wounds as the case was being put to trial. Although he had passed away, the case was put to trial. Actions were also taken against the platoon leader and other responsible personnel for remission in their duties to supervise and control the soldiers in their platoon. Post mortems performed no signs of rape.

1074. Concerning **Maw Lee Meh** (ibid., para. 976), the inquiry showed that the Light Infantry Battalion No. (530) did not carry out military operations at Daw Tamagyi village, Dee Maw So Township on the alleged date. It was confirmed that there was no woman named Maw Lee Meh and there was no report of the alleged incident at the police station of De Maw So Township.

1075. Concerning **Naw Shiri** (ibid., para. 912), **Naw Bee** and **Naw Cho Yee** (ibid., para. 922), **Naw Kleh** and **Naw Htoo Paw** (ibid., para. 957), and **Su Mar** (ibid., para. 974), the places of the alleged incidents were found neither on the map nor on the ground.

Namibia

1076. By letter dated 16 September 2003, the Special Rapporteur advised the Government that he had received information concerning 300 people who were detained in the Caprivi region following an armed attack on government forces and buildings in Katima Mulilo in August 1999 by members of the Caprivi Liberation Army (CLA). It is alleged that most of those taken into custody were subjected to torture and other forms of ill-treatment and denied medical assistance. A total of 122 individuals reportedly still remain in custody pending trial on charges of high treason, murder and other crimes in connection with the armed attack. Information was received with respect to the following cases.

1077. **Postrick Mario Mwinga**, a 43-year-old former security guard employed at the Ministry of Home Affairs, was reportedly arrested on 27 September 1999 and taken to Chichimani Special Field Forces (SFF), where, according to the information received, a 60-kg weight was placed on his neck, he was severely beaten, subjected to sexual abuses, threatened with death, placed in solitary confinement and denied food, water, blankets and medical care. As a result of the treatment, he allegedly sustained two broken ribs, visible scars on his body, and complained of painful, hot and aching

legs and feet. He is said to suffer from chronic post-traumatic stress disorder, including chronic flashbacks and nightmares. His mother and sister were reportedly beaten in front of him, as a result of which his sister is believed to have died.

1078. **Brian Mbozi**, a 46-year-old Mafwe farmer, was reportedly arrested on 12 November 1999 by SFF and army officers and interrogated in a police station where he is believed to have been beaten with *sjamboks* (long stiff whips) for three hours, forced to turn around continuously while pressing his finger on the ground, and beaten whenever he fell down. It is also alleged that police officers threatened to kill him while holding a gun to his head and that he was denied access to food, medical treatment and his family. According to the information received, he was constantly made to rewrite his statements to the police, and on 20 August 2000 was reportedly offered payment to provide information. He is reportedly still in custody.

1079. **John Samboma**, a 45-year-old man of Mufwe ethnic origin, was reportedly abducted from Zambia and detained in Namibia by members of the Zambian Police, the Zambian Defence Force and the SFF. While in custody from November 1999 to May 2000, it is reported that he was severely beaten and that his toenails were removed, after which he was forced to walk. It is further alleged that security forces hammered on his kneecaps with pistols. According to the information received, he was stripped naked and was subjected to electric shocks, in particular on his genital area, had his hands and feet cuffed in unnatural positions for four days and was buried under sandbags. As a result of the treatment allegedly received while in custody, he reportedly sustained scars all over his body. It is also alleged that he contracted HIV from medical treatment while in custody.

1080. **Raphael Lifumbela**, a 42-year-old Mufwe, was reportedly kicked, including in his teeth, with boots while handcuffed and blindfolded and had salt water poured on his wounds in August 1999 by SFF personnel. He is also believed to have been subjected to sleep deprivation and forced to look at three corpses. It is also said that he was made to defecate on himself. He was reportedly not given any medical assistance. As a result of the treatment, he is reported to have high-pitched ringing in his ears. He reportedly suffers from disturbed sleep, failing memory and poor ability to concentrate. According to medical reports, he suffers from post-traumatic stress disorder caused by the treatment he received.

1081. **Oscar Lumphalezwi**, a 49-year-old former policeman of Mafwe ethnic origin, was reportedly severely beaten by SFF personnel in August 1999. He is also alleged to have been forced to lie in dirty water and denied medical assistance for six days. As a result of the treatment allegedly received while in custody, it is alleged that he has numerous scars on his skin and that he suffers from high blood pressure. It is also reported that he presents symptoms of post-traumatic stress disorder such as nightmares, flashbacks and panic attacks.

1082. **Chombo Linus**, a 42-year-old Mufwe, was reportedly blindfolded and subjected to beatings and mock executions by SFF personnel in August 1999. It is alleged that beer was poured over him and he was denied medical assistance for 11 days. As a result of the latter, it is reported that he has developed a lump on his right shoulder and that he is suffers from post-traumatic stress disorder, including nightmares and insomnia.

1083. **Robert Chalezo**, a 37-year-old Mufwe, was reportedly severely beaten on 5 August 1999 by SFF personnel. He was reportedly stripped naked, had beer and water poured over him, was severely beaten and kicked and had two guns pointed at him during the beatings. He is believed to have been deprived of food and medical treatment for six days following this treatment. As a result, he allegedly sustained over 50 scars and a damaged eardrum. He is also said to suffer from post-traumatic stress disorder, including nightmares, flashbacks, insomnia and recurrent memories of the events.

1084. **Alfred Tawana Malenga**, a 51-year-old Subia, was reportedly severely beaten by SFF personnel in August 1999. It is alleged that he had beer poured over open wounds and that he was deprived of food, blankets and medical assistance. As a result, it is reported that his eyesight was damaged, that he developed rashes, has frequent headaches and suffers from post-traumatic stress disorder, including nightmares, flashbacks and insomnia.

1085. **Somaile Crispin**, a 43-year-old Mufwe ethnic, was reportedly whipped, kicked and severely beaten by SFF personnel from 4 to 23 August 1999. He is alleged to have had beer poured over him. He was allegedly injured on the neck, foot and ear. While in custody, he was reportedly denied blankets, food, water and medical assistance. As a result of the alleged ill-treatment, he reportedly sustained scars on the right foot and left ear, a backache, hearing problems and high blood pressure and is believed to suffer from post-traumatic stress disorder, including nightmares, flashbacks, insomnia, memory difficulties and impaired ability to concentrate.

1086. **Adams Muyamba**, a 29-year-old Mufwe, was reportedly blindfolded, kicked, punched and beaten by SFF personnel from 21 to 30 August 1999. He is believed to have been denied food, water and medical assistance for nine days. It is reported that as a result of the treatment, he has developed anxiety and fear and suffers from post-traumatic stress disorder, including nightmares, flashbacks and insomnia.

1087. **Kennedy Chunga**, a 32-year-old Mufwe, was reportedly assaulted by SFF personnel in November 1999. According to the information received, he had his head banged against a wall, was handcuffed, kicked, beaten with batons, threatened with a gun and subjected to mock executions. He is believed to have been denied food, blankets and medical assistance while in detention. Fears were expressed that he may have been infected with HIV, and that he suffers from post-traumatic stress disorder.

1088. **Bollen Mulima**, a 34-year-old Mufwe, was reportedly whipped, kicked and beaten with rifles by SFF personnel in August 1999. He is believed to have been denied food, water, blankets and medical assistance. As a result of this treatment, he reportedly has suffered from post traumatic stress disorder, including regular headaches and insomnia.

1089. **Alfred Siyata**, a 38-year-old Mufwe, was reportedly whipped, kicked and beaten with rifles by SFF personnel on 4 August 1999. He is believed to have been denied food, water, blankets and medical assistance. As a result of this treatment, he reportedly has suffered from post traumatic stress disorder, including regular headaches and insomnia.

1090. **Charles Mainga**, a 40-year-old Mufwe, was reportedly whipped, kicked and beaten with rifles by SFF personnel on 4 August 1999. He is believed to have been denied food, water, blankets and medical assistance. As a result of this treatment, he reportedly has large scars on his body and suffers from post-traumatic stress disorder with signs of amnesia, disturbed memory and concentration, chronic nightmares, flashbacks and depression.

1091. **Viktor Makhando**, a 31-year-old Mufwe, was reportedly whipped, kicked and beaten with rifles by SFF personnel on 4 August 1999. He is believed to have been denied food, water, blankets and medical assistance. As a result of this treatment, he reportedly has scars and shows signs of post-traumatic stress disorder, including disturbed concentration and memory, nightmares and flashbacks, as well as insomnia.

1092. **Moses Limbo Mushwena**, a 40-year-old Mufwe, was reportedly beaten, whipped and kicked and had his head banged by SPP personnel in June 1999. He is alleged to have been subjected to solitary confinement for five days and to have been denied medical assistance. As a result, he is reported to suffer from post-traumatic stress disorder, including nightmares, flashbacks, extreme fear and insomnia.

1093. **Martin Chainda**, a 47-year-old teacher from the village of Makanga, was reportedly arrested on 24 August 1999 after being stopped at a roadblock by SFF officers. He was allegedly taken to Katima Mulilo police headquarters where he was reportedly beaten with rubber batons and punched until he lost consciousness. He was reportedly forced to sign a statement admitting to helping transport rebels, and was denied medication to treat his diabetes and injuries before being transferred to Grootfontein prison. He is said to still be in custody.

1094. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2000 for which no responses had been received.

Nepal

1095. By letter dated 17 September 2003, the Special Rapporteur informed the Government that he had received information on the following individual cases.

1096. **Bahumat Chaudhary**, a teacher and farmer from Masuria Village Development Committee (VDC) 7, Kailali district, was reportedly arrested on 5 January 2001 by approximately 12 Armed Police Force (APF) personnel in uniform. He was allegedly forced to erase a Maoist slogan on a wall with the use of cow dung. During interrogation at Chaumala APF camp, he was allegedly made to do a headstand against the wall for approximately one hour and beaten with wood and bamboo sticks. He was also reportedly beaten on the soles of his feet and was allegedly denied food and deprived from sleeping. At the time of his release, he was allegedly forced to sign a statement without being allowed to read its content.

1097. **Prem Lal Chaudhary**, a student from Tikapur-9, Kailali district, was reportedly arrested with a friend on 9 March 2001 by APF personnel from Durgauli VDC, Kailali. He was reportedly taken to APF camp in Tikapur, where he was allegedly beaten with a bamboo stick. He was reportedly transferred the next day to

the APF camp at Banbehera, where he was allegedly beaten again with a bamboo stick by an inspector during interrogation. One month later, he was reportedly transferred to the District Police Office (DPO) in Dhangadi.

1098. **Shantha Ram Chaudhary**, a farmer from Masuria VDC-8, Kailali district, was reportedly arrested in April 2001 by APF personnel travelling in a truck, and taken to their camp, where he was allegedly forced to crawl on gravel in the compound for approximately 30 minutes. He was reportedly interrogated every day for about one week and beaten on the soles of his feet.

1099. **Badra Bahadur Mala** was reportedly arrested on 18 April 2001 at Mala Hoteln, Salyabangala, Nepalgunj Municipality -5, by approximately 35 policemen, some of whom were in civilian dress. He was reportedly taken to the city police station in Nepalgunj, Banke district, where he was allegedly beaten with a stick on his back, thighs and hands during interrogation. He was reportedly released on 17 July 2001. He allegedly lost his job as a teacher as a result of the arrest. According to the information received, he was later told by a police inspector who apologized to him that his arrest had been the case of mistaken identity.

1100. **Tanka Bahadur Khatri**, a man from Ward 7, Kachanapur VDC, Banke district, was reportedly accused of being a Maoist sympathizer and taken to the Samshergunj APF barracks near Nepalgunj on 4 December 2001 by two plainclothes policemen. He was allegedly kept for a week at the barracks where his wrists were tied with a chain, he was blindfolded and severely beaten. On 13 December 2001, he was reportedly transferred to Nepalgunj DPO, where he was allegedly blindfolded and handcuffed with his hands behind his back, beaten with pipes and kicked by allegedly drunken policemen until he lost consciousness. His fingernails were allegedly pierced with a pin, a baton was allegedly rolled over his thighs, water was allegedly poured through his nose while keeping his mouth shut and that he was allegedly administered electric shocks. He was allegedly subjected to this treatment to make him confess to being a Maoist sympathizer. He was reportedly released on 12 February 2003 through a decision by the Banke District Security Committee.

1101. **Lal Bahadur Rokaya**, an 18-year-old student from Ward No. 6, Kharka VDC, Dolpa District, and living at Devaphulbari Tole, Nepalgunj, Banke district, was reportedly arrested by the police on 22 December 2001 along with two friends—**Kamal Chettri** and **Girman Budha**. They were allegedly taken to Kamal Chettri's house, locked up inside, accused of being Maoists and beaten. According to the information received, they were later taken to the Bageshwori APF barracks near Nepalgunj, Banke district, blindfolded and with their hands tied behind their backs, they were made to lie on the floor with their legs in the air and beaten on the legs with rubber pipes and wooden sticks continuously for about one hour. The policemen reportedly kicked them in the back with their boots and randomly beat them on their hands, heads and backs with the rubber pipes and wooden sticks. They were allegedly daily subjected to a similar treatment for several days. The policemen also reportedly slashed the hands and legs of Kamal Chettri and Girman Budha and sprinkled salt and chilli powder over the bleeding wounds. Lal Bahadur Rokaya was reportedly taken to the INF Hospital in Nepalgunj on 10 June 2002, where he was allegedly beaten as well. He was later reportedly transferred to Banke district prison. However, the jail

administration allegedly refused to keep him there because of his physical condition and sent him back to the hospital the next day.

1102. **Upur Bahadur Bishwa Karma** was reportedly arrested on 12 January 2002 from his shop at Rim VDC-2, Salyan district, by approximately 30 army personnel, and taken to Kapurkot army camp, where he was allegedly held for six days and beaten with sticks and metal rods to the extent that he lost consciousness several times. Scars on his back reportedly supported his allegations.

1103. **Kumar Gurung**, a man from Ward No. 9, Dhagad VDC, Gorkha District, resident of Ringroad, Maharajgunj, Kathmandu, was reportedly arrested by a group of army personnel on 17 April 2002 in Thamel, Kathmandu, along with his friend Raju Adhikary. After the two men had allegedly been attacked by a group of unidentified men who reportedly punched Kumar Gurung, they were reportedly taken to the Maharajgunj Army Camp, where their heads were allegedly covered with a black hood. Kumar Gurung was allegedly kept blindfolded for eight days, interrogated about his involvement in a theft case, and kicked on the chest and buttocks by army personnel for about half an hour. During his detention, he was allegedly held incommunicado and denied medical assistance despite being sick for several days. On 25 April 2002, Kumar Gurung was reportedly transferred to the Hanuman Dhoka DPO, where he was also reportedly denied medical assistance. A fact-finding team who interviewed him on 6 May 2002 reportedly found some bruises and contusions on his hands and knees and was informed that he had not been permitted contact with his family.

1104. **Buddhi Dangol**, a resident of Lazimpat, Kathmandu, was reportedly arrested at his home on 23 April 2002 by a group of army personnel in plain clothes and taken to Maharajgunj for interrogation with his hands tied behind his back and his head covered with a black hood. He was allegedly stripped naked and left outside in the rain all night. While in custody, he was allegedly beaten with a wooden stick on his hands, legs and back. Army personnel allegedly used their boots to stamp on his knees and his chest on at least six occasions. Despite his requests, he was allegedly denied any medical assistance. He was reportedly kept blindfolded for four days. On the fourth day of detention he was reportedly taken to Ward Police Station, Maharajgunj, where he was allegedly kept for two days before being transferred to Hanuman Dhoka DPO on 29 April 2002. He was reportedly denied access to his relatives and friends until he was taken to the court, on 2 May 2002. That same day he was allegedly told that he had been arrested on suspicion of theft but was not given details on the charges brought against him and was not allowed to read the papers he was asked to sign by the police. He allegedly reported to the judge the treatment he was subjected to while in custody. A fact-finding team who interviewed him on 6 May 2002 reportedly found that he showed bruises, scars and wounds on his left hand, that his right hand was swollen and that the nails of the toes of his right foot had been removed.

1105. **Niraj Thapa**, a resident of Lazimpat, Kathmandu, was reportedly arrested at his home on 24 April 2002 by army personnel in plain clothes. His head was reportedly covered with a black hood and he was allegedly taken to the army barracks in Maharajgunj, Kathmandu, where his hands were allegedly tied behind his back and he was allegedly kept blindfolded for three days. He was reportedly beaten all over his

body with a wooden stick and a gun butt and kicked on his chest and knees during three days. He was reportedly taken to Hanuman Dhoka DPO on 27 April 2002 and to the court on 1 May 2002. He was allegedly not allowed to receive visits from his family before 1 May 2002. He was allegedly denied food for four days at the police station until he was taken to the court. A fact-finding team who interviewed him on 2 May 2002 reportedly found bruises and contusions all over his body, in particular, on his knees, forehead, back and legs. He was reportedly not given any medical treatment.

1106. **Kamal Magar**, a man from Tulsipur, Dang District, and resident of Kathmandu, was reportedly arrested without warrant by police officers on 8 May 2002 at the factory where he was working, located in Jorpati. Upon arrest, he was reportedly taken to Hanuman Dhoka DPO, Kathmandu and beaten with a plastic pipe and a bamboo stick on several occasions. With his hands and legs tied together with a rope, he was allegedly hanged from the ceiling by a wooden pole inserted into the rope and beaten with a bamboo stick and a plastic pipe. He was also reportedly repeatedly beaten on the soles of his feet. He was allegedly deprived of food. A fact-finding team who interviewed him reportedly observed that his body was covered with bruises and contusions and that he had not been provided any medical assistance. He was reportedly taken to the court 11 days after his arrest.

1107. **Rakash Tamang**, a 19-year-old man from Nuwqakot District and resident of Baudha, Kathmandu, was reportedly arrested by the police on 11 May 2002 in Jorpati, Kathmandu, taken to Hanuman Dhoka district police station and beaten with a plastic pipe and stick on the soles of his feet and the palms of his hands. With his legs and hands tied up with a rope in a bent over position, he was reportedly hanged from the ceiling and beaten. On another occasion, he was reportedly forced to lie down while two policemen held his legs and another rolled a wooden stick on his thighs and legs for about five minutes. He was allegedly also beaten with a stick on the palms of his hands. He reportedly suffered contusions and bruises as a result of this treatment. However, he was allegedly not given medication. He was reportedly taken to the court 13 days after his arrest. He was allegedly unaware of what was written in the statement he signed.

1108. **Laxmi Prasad Adhikari, Moti Ram Bhatt and Haribar Prasad Joshi**, originally farmers from Sera VDC, Dhane Basi, Achham district, were reportedly arrested by army personnel on 12 May 2002 while staying at the Annanda Hotel in Mastamandu VDC, Sanfe Bagar, Accham district. At that time, the three of them were reportedly acting as facilitators for the German development organization GTZ, doing literacy training. They were allegedly accused of being Maoists. During interrogations, they were allegedly handcuffed, made to lie on the floor, kicked in the face, beaten with rifle butts, and threatened with death by military personnel. Upon release, the three men reportedly received medical treatment at Silgadhi hospital, Doti. A complaint was lodged to which the Director of Military Operations of the Royal Nepal Army (RNA) reportedly responded on 10 June 2002 by stating that some of the information given in the complaint was incorrect.

1109. **Navraj Davadi**, a resident of Khursanitar, Lazimpat, Kathmandu, was reportedly arrested on 17 May 2002 when he went to visit some friends in Ghattaghar, Kathmandu. Upon arrest, he was reportedly taken to Mahendra Police Club,

Kathmandu, which is said to be an unofficial place of detention, where he was allegedly slapped by six policemen, including a sub-inspector. He was later transferred to Hanuman Dhoka DPO, Kathmandu, where he was reportedly punched in the chest and kicked with boots by policemen. He was reportedly taken to the court six days after arrest without having been given any food before. He was allegedly not allowed to read the statement he was asked to sign. He reported to a fact-finding team who visited him that he had pain all over his body, and in particular on his knees, but that he was not given any medical attention.

1110. **Bharat Sigdel**, a resident of Nuwakot District, Taruka-3, was reportedly arrested by the police at his home on 19 May 2002 along with two friends, Atendra Neupani and Lal Bahadur Chalauni, handcuffed, blindfolded and questioned on the leader of the Maoist rebels. Bharat Sigdel was reportedly taken to Mahendra Police Club and severely beaten on the thighs and hit with a plastic pipe and wooden sticks on his back, ribs and soles of his feet. He was reportedly transferred to Jana Sewa Police Office on 21 May 2002 and later to Ward Police Office, Jana Sewa Office, Romeo Hall, Mahrajgunj Police Office and Hanumandhoka DPO. On 28 October 2002, he was reportedly taken to Central Jail. Although a release order was allegedly given on 21 January 2003, he was reportedly brought back to Hanumandhoka DPO.

1111. **K. G.**, a 14-year-old boy from Panauti VDC, Kavre District, resident of Teku, Kathmandu, was reportedly arrested by police on 23 May 2002 in Teku and taken to Kalimati police station and to Hanuman Dhoka DPO, where he was allegedly forced to lie down and beaten on the soles of his feet with a wooden stick and on the palms of his hands. He reportedly shared a cell with 10 adult detainees and despite suffering from pains all over his body, he was allegedly provided with no medication.

1112. **Baburam Tamang**, a man from Ward No. 6, Fakhel VDC, Makwanpur District, and resident of Kirtipu, was reportedly arrested on 23 May 2002 at his place and taken to Hanuman Dhoka DPO, where he was allegedly beaten on the soles of the feet, thighs and back with a plastic pipe while being interrogated.

1113. **R. M.**, a 14-year-old boy from Bhairab Pachali, Teku, was reportedly arrested on 24 May 2002 in Teku and taken to Kalimati police station before being transferred on the following day to Hanuman Dhoka DPO. He was reportedly slapped and beaten on the head and on the soles of his feet with a plastic pipe and on his hands and arms with a wooden stick, on his head and to have been slapped. He was reportedly taken to the office of the CDO on 4 June 2002. He was allegedly not informed of the contents of his statement.

1114. **Rukku Kumar Lama**, a resident of Dhading district, was reportedly arrested for drug offences on 28 May 2002 near the Solti Hotel, Kathmandu, and taken to Hanuman Dhoka DPO where he was allegedly beaten on the ears, thighs, back and buttocks. He was reportedly taken to court on 5 June 2002, but the judge did allegedly not enquire about his physical health.

1115. **Indra Kumar Acharya** and his daughter **Yuvati Acharya**, aged 19, from Libang VDC-6, Rolpa district, were reportedly arrested from their shop opposite the DPO on 30 May 2002. Yuvati Acharya was reportedly interrogated and beaten on the shoulders and kept blindfolded. Indra Kumar Acharya was reportedly blindfolded and

made to lie on the floor with his palms facing upwards. It was alleged that one policeman stood on his hands while another held his head down and a third held his legs. Water was allegedly poured into his mouth and nose. According to the information received, afterwards, his hands were tied behind his back, he was hung upside down and his head was dipped in water. His chest was allegedly scratched with something he identified as iron claws. He was allegedly also kicked and made to lie on human excreta and urine.

1116. **Ganesh Tamang**, a 19-year-old resident of Ratopul, Kathmandu, was reportedly arrested on 30 May 2002, taken to Hanuman Dhoka DPO and beaten on the way there. While in custody, he was reportedly forced to lie down on the floor and a policeman allegedly stood on his legs. He was reportedly also beaten with a plastic pipe and a wooden stick on the soles of his feet and on his legs and back on several occasions over a period of two days. He was allegedly forced to sign a confession that he could not read and asked by a policeman for 1,000 rupees if he wanted to be taken to a court earlier. He was reportedly brought before a court nine days after his arrest. His family was allegedly not permitted to visit him during the first six days of detention.

1117. **Ram Lal Chaudhary**, a man from Ward 9, Dhundhekhola VDC, Sarlahi District, and resident of Jorpati, Kathmandu, was reportedly arrested on 2 June 2002, taken to Hanuman Dhoka DPO, and slapped several times during the transfer. While in custody he was reportedly forced to sit down with his legs stretched wide apart, while a policeman stood on his feet and two others allegedly beat him with a plastic pipe and with a wooden stick on the soles of his feet, back and legs. He was allegedly also forced to jump up and down. He was reportedly beaten on the shoulder with a wooden stick, which resulted in a dislocation of his left shoulder, and punched in the chest, which allegedly resulted in a blood clot for which he was taken to Bir Hospital. He was prescribed medicines but was allegedly not allowed to take them. He was allegedly not allowed to read a confession he was forced to sign. He was reportedly taken to a court three days later.

1118. **Ram Tamang**, an 18-year-old man from Ward No. 7, Kullobari VDC, Nuwakot District and resident of Gongabu, Kathmandu, was reportedly arrested by police in Kalimati, Kathmandu, on 4 June 2002, taken to the Bir Hospital Kathmandu and to Hanuman Dhoka police station where he was allegedly forced to lie down on the floor, beaten with a wooden stick on the soles of his feet by five policemen, and with his thighs rolled with an iron rod, beaten on his thighs and knees with a wooden stick. He was reportedly taken to the court 15 days after the arrest during which he was allegedly deprived of food. He was allegedly kept in an overcrowded cell infested with lice, bedbugs and mosquitoes. It is reported that he had scars and contusions all over his body, had difficulty standing, chafed and raw skin on his neck and stomach ache. However, he was allegedly provided with no medicines.

1119. **H. G.**, a 16-year-old boy from Ward No. 7, Bajipheda Village Committee, Kavre District, resident of Kathmandu and working at Trepureshwor, was reportedly arrested by four policemen in plain clothes on 5 June 2002 and taken to the Gausala police station. On the way to the police station, he was allegedly punched several times and once at the police station, he was allegedly beaten and forced to stand facing a wall while he was kicked on his legs and threatened with death at gunpoint.

On the following day he was reportedly taken to Hanuman Dhoka district police office, where he was allegedly beaten with a plastic pipe on the soles of his feet, forced to squat while a policeman beat him on the back, hit on the head with a wooden stick and forced to sign a confession that he could not read. While in detention, he was reportedly not provided with any medication although he complained that the soles of his feet were sore and that he had difficulty in moving his legs. He was reportedly taken to a court six days after his arrest.

1120. **S. B. K.**, a 14-year-old resident of Kathmandu, was reportedly arrested on 8 June 2002 and taken to Durbamarg police station, where he was allegedly kept for several hours and beaten by an inspector with a bamboo stick on the legs, back and soles of the feet. He was allegedly also forced to jump up and down on his injured feet, being beaten each time he stopped jumping. He was reportedly brought before the CDO 13 days after his initial arrest.

1121. **Tilak Sunuwar**, a 20-year-old man from Simara, Bara district, resident of Maitidevi, Kathmandu, and a dancer by profession, was reportedly arrested on 9 June 2002 near Kumari Cinema Hall, in Naxal, Kathmandu, and taken to Kamalpokhari police station, where he was allegedly beaten on his hands which had been tied together, legs and back with a wooden stick and kicked on the thighs about a dozen times. On the same day, he was reportedly transferred to Hanuman Dhoka DPO, where he was allegedly severely beaten, in particular on his back with a wooden stick and a plastic pipe. He was allegedly also forced to jump up and down after having been beaten on the soles of his feet. He was allegedly forced to make a statement and to sign a paper which he was not allowed to read. He was reportedly brought before a court 11 days after his initial arrest.

1122. **Punya Lepcha**, an 18-year-old man from Sikkim, India, was reportedly arrested on 9 June 2002 by four policemen in Sundhara, Lalipur, and taken to Gausala police station, where he was allegedly kept for eight days forced to lie face down on the ground while a policeman beat him on his back with a wooden stick, and on several occasions, beaten on the soles of his feet, elbows and knees. On the second day of detention, he was reportedly forced to crawl on elbows and knees along a road covered with sand and small stones and that he was reportedly beaten on the back with a hockey stick until it was broken. As a result of the treatment, he reportedly experienced pain all over his body, sustained wounds on his elbows and knees and bruises on his back, but he allegedly received no medical attention. On 18 June 2002, he was reportedly transferred to Hanuman Dhoka DPO and charged under the Public Offences and Penalties Act 1970. He was reportedly brought before a CDO 23 days after his arrest. A fact-finding team who visited him on 11 July 2002 reportedly witnessed blue scars on his elbows and knees and reported that he complained of bodily aches and pains.

1123. **Chet Kanta Adhikari**, a student living at Kohalpur VDC-3, Banke district, was reportedly detained by the Kohalpur police on 12 June 2002 and severely beaten with a baton and with a wheel with a stick inserted into it, subjected to other forms of torture and ill-treatment and threatened with death and with having his penis cut off. When he was taken home by the police in order to search it, he allegedly swallowed some poison and had to be hospitalized.

1124. **Dinesh Pokhrel**, a man from Ward No. 10, Inurwa, Sunsari District, and a resident of Maitidevi, Kathmandu, was reportedly arrested on 14 June 2002 at Seto Pul, along with **Kumar Pandit** and **Prem Shrestha**. They were reportedly beaten and punched by four policemen in civilian clothes, taken to Gaushala police station, and on the following day, to Kamalpokhari, where they allegedly kept in a private house for two days, beaten and kicked by an inspector in civilian clothes and two other men. Dinesh Pokhrel was allegedly beaten more severely when he pleaded his innocence. Kumar Pandit was released but the two other men were reportedly taken to Hanuman Dhoka DPO, where Dinesh Pokhrel was allegedly forced to sign a statement without being allowed to read it.

1125. **Sharda Lal Shah Kalwar**, a man from Ward No. 3, Feta VDC, Bara District, resident of Kalimati, Kathmandu, was reportedly arrested on 16 June 2002 in Bagbazar, Kathmandu, and taken to Hanuman Dhoka DPO, where he was allegedly beaten on the soles of the feet with a wooden stick while being immobilized on a table. He was allegedly also beaten with a plastic pipe, which allegedly resulted in a blood clot under his right foot toenails. He was reportedly taken to a court three days after his arrest, where he allegedly claimed that he had been forced to make a confession. He was reportedly charged with possession and use of narcotic drugs.

1126. **Guddu Barma**, a businessman from Delhi, India, on business travel to Kathmandu, was reportedly arrested by police in civilian clothes on 29 June 2002 in Maitidevi temple, on suspicion of involvement in the murder of a number of staff at the Royal Casino, and taken to Kamalpokhari police station and on the following day to Hanuman Dhoka DPO, where he was reportedly kept for 15 days, during which he was allegedly punched, kicked and beaten with a plastic pipe, in order to extract a confession. He was allegedly also beaten in front of a public prosecutor. While in custody, he was reportedly not provided with medical attention and daily food. He was reportedly brought before a court 20 days after his arrest. When a fact-finding team visited him on 25 July 2002, they reportedly saw bruises on his body.

1127. **Ganesh Ghale**, a 24-year-old man from Ward No. 8, Barpak, Gorkha District, resident of Pakanajol, Kathmandu, was reportedly arrested on 30 June 2002 at Paknajok, and taken to Sorakhutte police station, where he was allegedly beaten by four policemen with a wooden stick and a plastic pipe all over his body, and later forced to lie on the ground and beaten with a stick on his back and abdomen. On the following day, he was reportedly beaten about 16 times on his back and palms by a sub-inspector with a bamboo stick. He was allegedly kicked and punched by a constable. A fact-finding team who visited him on 11 July 2002 reportedly witnessed that the palm of his right hand and fingers were swollen and that he could not bend his fingers and left shoulder. He was reportedly brought before a CDO six days after his arrest. He reportedly claimed that his statement was extracted under duress.

1128. **N. R.**, a 17-year-old resident of Ward No. 9, Chuchure VDC, Ramechhap district, was reportedly arrested on 7 July 2002 in Dhumbarahi, Kathmandu, and taken to Hanuman Dhoka DPO, along with his brother and his niece. On the following day, he was reportedly beaten with a plastic pipe and a bamboo stick on his back, legs and buttocks and kicked. His thighs were reportedly rolled with plastic pipes and his stomach pressed with a stick. Detainees were allegedly forced to slap each other. He was reportedly taken to the court 20 days after his arrest and he reportedly claimed

that his confession had been taken under duress. He was allegedly not given money for food during the first 20 days of detention. A fact-finding team who visited him on 1 August 2002 reportedly stated that he was suffering from pain, in particular in his right leg, chest and heart, that he experienced giddiness and that he could not sleep at night as a result of the alleged treatment.

1129. **A.M.**, a 14-year-old boy from Ward No. 4, Ratmate, Makwanpur district, and resident of Kohity, Kathmandu, was reportedly arrested on 20 July 2002 in Kalimati on suspicion of rape, and held for 13 days in Kalimati police station, where he was allegedly forced to stand up while he was beaten on the legs and palms of his hands with a plastic pipe, and to do push-ups about 12 times a day and beaten with a plastic pipe on his back each time he gave up. After he confessed, he was reportedly transferred to Hanuman Dhoka DPO, where his statement was taken. He was reportedly brought before a court 15 days after his arrest.

1130. **Mrs G**, a 25-year-old woman living in Sunsari district, was reportedly arrested on 15 July 2002 following a dispute with her daughter-in-law, and taken to the area police station, where she was allegedly beaten on the hands, lower back and thighs with a stick by a female police officer and subjected to verbal humiliation and threats. As she became seriously ill, she was reportedly taken to hospital in Dharan—the B.P. Koirala Institute of Health Science—for treatment. A complaint was allegedly lodged on her behalf under the Torture Compensation Act at the Sunsari District Court at Inaruwa. She was reportedly sent for a medical check up at the district hospital and the report was sent to the court. As far as the Special Rapporteur had been informed, no further investigation into the allegation of torture and ill-treatment had been conducted.

1131. **Nau Bahadur Tamang**, a resident of Solokhombu District, Sallery-5, was reportedly arrested on 24 July 2002 and taken to the army barracks in Dolkha-Jiri with his hands tied behind his back and his head covered with a black hood. In the barracks he was reportedly beaten with wooden sticks and boots, made to lie down and given electric shocks on his ankle and fingertips after water was allegedly poured on him. He was allegedly severely beaten on the neck with a wooden stick. Half of his body was reportedly submerged into a pit and he was allegedly forced to maintain this position for 15 minutes, before being subjected to further beatings. He was reportedly taken to Hanumandhoka DPO on 25 October 2002 and held in incommunicado detention for three months. He was charged under the Terrorist and Disruptive Act (TARA) and eventually taken to court on 9 January 2003. On 26 January 2003 the Appellate Court, Lalitpur, reportedly issued a 20-day detention order, which was subsequently extended.

1132. **Ashish Rai**, a man from Ward No. 15, Dharan, Sunsari District, currently living in Jawalakhel, Lalitpur, a district near Kathmandu, and a singer by profession, was reportedly arrested by the police on 12 September 2002 at Koteshwor, Kathmandu, along with three friends, while they were watching a fight. They were reportedly taken to Hanuman Dhoka DPO in Kathmandu where his three friends were released after an inquiry and he was charged with being involved in the fighting. According to the information received, three days after his arrest, during interrogation, three policemen made him lie on the table, tied his both legs with a rope and beat him with a plastic pipe and a wooden stick on the soles of his feet. A wooden

stick was reportedly over his thighs and that he was allegedly beaten on his hands, face, head and thighs with a bamboo stick and kicked. He was reportedly brought to Bir Hospital in Kathmandu where he allegedly received about six stitches to a head injury. He was allegedly taken for the first time to the office of the CDO two months after his arrest but then remanded. He was allegedly not allowed visits from family members for the first three weeks after his arrest. When lawyers visited him on 12 November 2002, they reportedly witnessed some wounds and scars, stitches on his head and bruises on his nose.

1133. **Dilip Giri**, a 19-year-old resident of Old Baneshwor, Kathmandu, was reportedly arrested on 9 October 2002 by policemen from the Gaushala Ward Police Station, where he was allegedly made to lie down on the floor and hit with a bamboo stick on the soles of his feet. He was reportedly transferred to Hanuman Dhoka DPO one week later. Despite complaining of numbness in his legs, difficulty in bending and swelling in his knees, he was allegedly not given any medical treatment. He was reportedly presented to the CDO on 29 November 2002 and charged under the Public Offences and Penalties Act. Up until 30 November 2002 he had reportedly had to rely on other detainees for food. A case under the Torture Compensation Act was reportedly lodged on 3 December 2002 with the Kathmandu District Court. The court allegedly ordered the detainee to be taken to hospital and the police to confirm within three days that he was detained at the Hanumandhoka DPO.

1134. **M. L.**, a 15-year-old boy from Ward No 2, Sarlahi, Sarlahi district, living in Baneshwor, Kathmandu, was reportedly arrested on 26 October 2002 and taken to Baneshwor police station. He was reportedly called into the Inspector's room, made to lie down on the ground, beaten with a wooden stick on his hands, legs and the soles of his feet for about 10 to 15 minutes and subsequently forced to jump up and down until he fell unconscious. He was reportedly released later the same day, but was asked to report once a month to the police station. On his second visit to the police he was reportedly arrested and held for one week and subsequently transferred to the Hanuman Dhoka DPO, where he was allegedly forced to lie down while a wooden stick was rolled on his thighs with a police officer standing on each end. He was reportedly also hit with a wooden stick on his legs and back. When lawyers visited him on 19 November 2002, they reportedly saw bruises on his right leg. He was allegedly not given food during his first four days in custody. He was reportedly forced to sign a statement without knowing the contents. He was reportedly taken to the court only after the alleged wounds were healed.

1135. **Sete Tamang**, a resident of Jaisithok VDC, Kavreplanchok district, was reportedly arrested on 2 November 2002 at Thimi, Bhaktapur, by a group of 10 policemen in civilian clothes and taken to Thimi police station. He was allegedly slapped in the face and kicked in the back and later taken to Hanuman Dhoka DPO, in particular to the Interrogation Section (known as Kerkar Shakha), where he was allegedly hung upside down and beaten by four policemen on the back and on the soles of the feet with wooden sticks and a plastic pipe for about four hours while shouting abusive comments at him. He was reportedly charged with robbery and taken to the District Court on 25 November 2002 where he was remanded. Lawyers who visited him in custody reportedly confirmed that he complained of chest and back pain and that he had not received any medical treatment.

1136. **Raju Lama**, a resident of Thimi, Bhaktapur, in the Kathmandu valley, and one of his friends were reportedly arrested by police personnel on 1 November 2002 and taken to the Hanuman Dhoka DPO in Kathmandu, where Raju Lama was allegedly slapped and taken to a room known as Kerkar Sakha (Interrogation Section) where he was questioned about three robberies and beaten when he denied any knowledge. With his hands and legs tied together and a wooden stick inserted between them, he was reportedly beaten on his back, thighs, legs and the soles of his feet with a wooden stick. He was allegedly subsequently made to stretch his legs out and beaten with a plastic pipe on the soles of his feet. This treatment allegedly continued for two full days without access to any water, food or medical treatment. He and the other nine detainees were reportedly taken to the court on 25 November 2002 but he was allegedly not permitted a visit by his lawyers until 3 December 2002. During this interview he reportedly complained of difficulties in passing urine, itching on the scars of the wounds which had allegedly been inflicted during the beatings, chest pain and dizziness. A complaint was reportedly lodged on his behalf under the Torture Compensation Act on 4 December 2002 in the Kathmandu District Court.

1137. **Srikaji Lama**, a resident of Mahankal Bauddha, Kathmandu, was reportedly arrested by a policeman in civilian clothing on 20 November 2002, in Gausala, Kathmandu, and taken to Hanuman Dhoka DPO, where he was allegedly beaten on the shoulders, hands and back with a wooden stick, forced to lie down with his legs on a table and beaten on the soles of his feet while in this position, and made to jump up and down. On five occasions, he was allegedly made to sit down on the floor where the same police officer beat and kicked his right arm with his boots for another 20 minutes. He allegedly did not receive any medical treatment. According to the information received, when presented in court on 6 December 2002 he reported to the judge the treatment he was subjected to while in custody and the latter ordered him to be taken to hospital. However, when returned to custody, he was allegedly slapped and the police officers threatened him with further torture if he continued to reveal his allegations of torture to the court or anyone else. Lawyers who visited him on 24 December 2003 reportedly witnessed bruises and contusions on his back, thighs, arms and toes. Srikaji Lama allegedly complained of strong pain throughout his body, including chest pain, pain and numbness in the legs, dizziness and insomnia. He was allegedly provided with no medical assistance.

1138. **Ashok Kumar Shah**, a man from Ward No. 8, Mangaltar, Tahachal, Kathmandu, was reportedly arrested by four policemen dressed in civilian clothes in Soltimod, Kathmandu, on 23 November 2002, and taken to Hanuman Dhoka DPO. He was reportedly beaten by two Sub-Inspectors with a plastic pipe on the soles of his feet and the palms of his hands, and, on the next day, beaten with four wooden sticks tied together. He was reportedly taken to the office of the CDO one week later.

1139. **Hom Bahadur Bagale**, a Sub-Inspector (SI) in the Nepal Police, posted to the Central Police Band, Gulma Battalion, Maharajanj, Kathmandu, was reportedly ordered on 23 November 2002 by Deputy Superintendent of Police (DSP), Chief of the Central Police Band, to go to Tribhuvan International Airport to fetch some gold that had allegedly been sent to him by his family. However, SI Bagale reportedly refused, alleging that it was not his duty to carry out such activities. On 28 December he was reportedly ordered by the DSP to go to Hanumandhoka DPO and meet with an inspector, who allegedly beat him. On 29 November 2002 he was reportedly

handcuffed and taken to the office of a Superintendent of Police (SP), where he was allegedly beaten with a cane by the SP and an inspector, before the SP ordered his transfer to the interrogation room in Hanumandhoka, where he was allegedly subjected to other forms of torture and ill-treatment by an inspector who reportedly rolled a heavy cement log on his thighs. He was later allegedly handed over to a female officer who beat him again. On 2 December 2002 he was reportedly taken to the Investigation Branch of Hanumandhoka DPO, where he was made to sign a document that he was not allowed to read. According to the information received, as he refused, he was blindfolded and beaten on the soles of the feet 150 to 200 times again by a group of seven policemen and two inspectors, who poured cold water on the floor and made him walk and beat him with nettles (*sisnu*). He was reportedly kicked and beaten again by an inspector on 3 and 4 December 2002 and taken to the Legal Section of the Police Headquarters in Naxal on 5 December 2002. According to the information received, as the Legal Section refused to detain him there, he was taken to the Quarter Guard room of APF Battalion No 1 at Naxal and later to his office at Maharajgunj, where he was ordered to stay. A habeas corpus petition was filed on his behalf on 3 December 2002 and the Supreme Court ordered the police to present the victim in court within 24 hours. In his reply to the court, the aforementioned DSP reportedly said that SI Bagale was not under arrest, that he was working at his office and that he had not committed any crime under the Police Act. The above-mentioned SP reportedly answered to the court saying that SI Bagale had not been detained at Hanuman Dhoka DPO. A case was filed under the Torture Compensation Act on his behalf and legal action was allegedly proceeding. SI Bagale was reportedly ordered to be present at Armed Police Gan (Battalion), Maharajgunj, Kathmandu. Meanwhile, according to the information received, on 1 April 2003 the police authorities asked him to withdraw both legal actions. As he refused, he was allegedly threatened with transfer to a remote posting in Dipayal, Doti, Far Western Region.

1140. **Bishnu Prasad Soti**, an Assistant Sub-Inspector (ASI) with the Nepal Police posted to the Regional Police Unit Office, Bagmati, at the Mahendra Police Club, Exhibition Road, Kathmandu, was reportedly called to the room of the Deputy Inspector General (DIG) at Police Headquarters in Naxal, on 16 December 2002, interrogated by a Senior Superintendent of Police (SSP) and asked to accept charges that he had attempted to steal goods in a factory in September 2002, or that he had sent someone to do so. According to the information received, as he refused to do so, he was ordered to take off his sweater, shirt and vest and sit down on the floor, and beaten on his cheeks. He was reportedly subsequently taken to the Quarter Guard of No. 1 Battalion in the Police Headquarters, where upon his arrival he was told by a guard that there was an order not to provide him with food and water for three days. He was allegedly kept in a 5 foot-by-6 foot room with a small bedstead without bedding, and where the temperature was said to be minus 2 Celsius. On the following day, he was reportedly again asked to accept the charges and to sign a statement without being allowed to read it. His hands were reportedly tied behind his knees with a rope, a bamboo stick was put behind his knees, he was reportedly beaten with a polythene pipe on the soles of his feet and later forced to walk around. Three days later he was reportedly asked by the SSP to sign a second statement and threatened with torture when he asked to see the Inspector General of Police before signing it. He was allegedly kept in incommunicado detention for a period of 68 days. On 26 March 2003, a complaint was reportedly filed on his behalf under the Torture Compensation

Act. When his superiors found this out, they reportedly ordered him not to go outside the Police Headquarters Compound without permission.

1141. **K. T.**, a 16-year-old boy residing in Sarswati Nagar Chawahil, Kathmandu, was reportedly arrested without warrant on 10 February 2003 and taken to the Ward Police Station, Gaushala, Kathmandu, where he was allegedly severely beaten on the soles of his feet, his back and palms by five policemen with a wooden stick. He was reportedly not provided with any food during the one day he was kept there. On the following day he was reportedly taken to the Hanuman Dhoka DPO where he was allegedly kept until 5 March 2003, without being provided any food. According to the information received, while in custody there he was kept in the Interrogation Section, kicked and subjected to electric shocks. On 6 March 2003 he was reportedly taken to the District Court for an extension to his remand. Lawyers who visited him on 17 March 2003 in custody at Hanuman Dhoka DPO reportedly found him lying on the floor outside the custody room suffering from anorexia, insomnia, chest pain and with difficulties in moving his body. An application for physical and mental check up was reportedly filed on his behalf in the District Court on 17 March 2003.

1142. **Matak Bahadur Tamang**, a man living in Dallu, Kathmandu, was reportedly arrested on 5 March 2003 and taken to the Hanuman Dhoka DPO. On the following days, he was reportedly taken to the Interrogation Section of the DPO where he was allegedly beaten with a plastic pipe and bamboo sticks. He was allegedly hung upside down from the ceiling with his legs tied together and a bamboo stick inserted between them and beaten on the knees and soles of the feet, and subsequently untied and beaten again on the back with a bamboo stick, kicked, beaten on the soles of his feet with a bamboo stick and punched on the face. He was allegedly not given food for eight days. He was reportedly taken to the District Administration Office of the CDO for a remand extension of ten days on 31 March 2003. He was allegedly forced to sign a statement without being allowed to read it. Lawyers who visited him on 9 April 2003 at the DPO reportedly found him in a very poor condition, but he allegedly received no medical assistance. A complaint was reportedly filed on his behalf on 10 April 2003 under the Torture Compensation Act, applying for a physical and mental check-up.

1143. **Hom Bahadur Tamang**, a man living in Balaju, Nepalatar, Kathmandu, was reportedly arrested at his residence on 5 March 2003 by two policemen from the Balaju Ward Police Station and taken to the Jana Sewa police station in Bishal bazaar, where he was allegedly beaten all over the body, and in particular on the legs, with a bamboo stick for about 12 hours continuously. On the following day, he was reportedly taken to the Interrogation Section of the Hanuman Dhoka District Police where he was allegedly physically assaulted by a Sub-Inspector and a Head Constable. He was reportedly taken to the District Court on 15 March 2003 and the judge reportedly extended his remand period for seven days. It is alleged that his remand period was further extended on two occasions by seven and eight days respectively. When he reported to the judge that he had been forced to sign a statement, the latter reportedly ordered the police to take him to Bir Hospital for a medical check-up but nothing was said to have been done to treat the open wounds on his knees. Lawyers who visited him in custody reportedly saw scars and contusions on his knees. He was allegedly from insomnia, anxiety and extreme weakness as a result of the treatment allegedly received while in custody.

1144. **Shiv Chauhan**, a policeman from Ward No 1, Chandra Gadhi VDC, Jhapa District, living and working in the Sainbu Barracks, Kathmandu, was reportedly arrested on 13 March 2003 and taken to the Jana Sewa police station where he was allegedly handcuffed and beaten. A stick was reportedly placed under his knees and he was allegedly made to sit down and beaten on the back and thighs with a bamboo stick, as well as on the soles of the feet by making him lie down on the floor. On the following day he was reportedly kicked him in the mouth and beaten on the soles of his feet. On 14 March 2003 he was allegedly transferred to the Hanumandhoka DPO and brought before a court, before being remanded in custody for seven days. When he was presented to the District Court for an extension of his remand, the judge reportedly ordered a medical check-up and the police took him to the Bir Hospital, where an X-ray test was carried out. However, he was allegedly given no medicines.

1145. **Dinesh Thapa**, a resident of Dallu, Kathmandu, was reportedly arrested without warrant on 15 March 2003 from his home at Nijgadh and taken to Hanumandhoka DPO the following day. According to the information received, when under interrogation at Hanuman Dhoka DPO he was beaten with wooden sticks on his back, thighs, buttocks and on the soles of his feet. He was reportedly presented to the Court on 28 March 2003 on a charge of theft. He allegedly received no medical attention.

1146. **Tika Bahadur KC**, an 18-year-old resident of Bishalnagar, Kathmandu, was reportedly arrested without warrant on 24 March 2003 at Sorokhottey, Naya Bazaar, Kathmandu, by police from the Ward Police Station, Bishalnagar, and taken to the Drug Trafficking Control Department in Baneshwor where he was allegedly handcuffed and forced to lie down on the floor and beaten on the soles of his feet with plastic pipes and bamboo sticks by four policemen, who allegedly forced him to jump up and down, before making him to lie face down on the floor and beating him on his back and hips with bamboo sticks. He was reportedly taken to Hanumandhoka DPO on the following day and presented to the District Court for a remand extension on 6 April 2003. The Court allegedly extended his remand for two days the first time and seven days the second time. He was reportedly taken to the Interrogation Section at Hanuman Dhoka DPO and subjected to beatings on the soles of his feet, hips and back with bamboo sticks. He was reportedly subsequently made to sit down with a bamboo stick inserted between his bent knees, hanged in an upside-down position and beaten on the soles of his feet, and on the palms of his hands, placed on a table and beaten. Lawyers who visited him on 10 April 2003 allegedly observed that the skin on the soles of his feet was peeling off due to the swelling. He allegedly received no medical attention.

1147. **Ishwar Prasad Shrestha** was reportedly arrested in Swayambu, Kathmandu, on 20 March 2003 and taken to the Ward Police Station, Swayambu, where he was allegedly beaten with a plastic pipe on his back and other parts of his body and on the calves of his legs and soles of his feet with wooden sticks and plastic pipes. He was reportedly brought to Hanumandhoka DPO on 24 March 2003 and presented to the District Court on 7 April 2003 for an extension to his remand period which was extended for 10 days. When lawyers visited him on 10 April 2003 he reportedly complained of pain in his calves and the soles of his feet. He allegedly received no medical attention.

1148. **Dilip Subba**, a resident of Gaurighat, Kathmandu, was reportedly arrested on 25 March 2003 and taken to Baneshwor Ward Police Station, where he was allegedly beaten with bamboo sticks on his thighs, on the soles of his feet and on his back, kicked on his thighs by the policemen. He was allegedly taken to Hanuman Dhoka DPO, where he was allegedly subjected to a similar treatment and presented to the CDO on 26 March 2003. His remand was reportedly extended for a period of 10 days. He allegedly received no medical attention while in custody.

1149. **Kamal Tamang** was reportedly arrested without warrant on 8 April 2003 from Kapan and taken to the Ward Police Station, Kapan, where he was allegedly beaten with a wooden stick on his thighs, back and hips, and later transferred to Ward Police Station, Baudha, where he was allegedly also subjected to beatings and other forms of ill-treatment. He was reportedly taken to Hanuman Dhoka DPO on 10 April 2003, where he was allegedly beaten with plastic pipes and wooden sticks on several occasions and whipped on the palms of his hands, soles of his feet and on his calves and back. When lawyers visited him in custody at Hanuman Dhoka DPO on 13 May 2003 he reportedly complained of experiencing difficulty while walking, of feeling giddy, of suffering from insomnia, anxiety and loss of appetite. He allegedly received no medical treatment. He was reportedly brought before the District Court of Kathmandu for an extension to his remand on 2 May 2003.

1150. **Samant Bajracharya**, a 24-year-old man from Jyatha, Thamel, Kathmandu, was reportedly arrested on 9 April 2003 in Kalimati, Kathmandu, put into a police van that belonged to the Ward Police Station, Kalimati and taken to Hanuman Dhoka DPO. On the way to the DPO he was allegedly slapped and punched in the face by the policemen in the van. According to the information received, on arrival he was taken to the Interrogation Section and four to five policemen beat him with plastic pipes and wooden sticks and kicked him randomly all over the body. During interrogation, he was reportedly handcuffed and beaten on the thighs, back and the soles of his feet and he was allegedly dragged by the hair and beaten on his already wounded arms. He was reportedly presented to Court for a remand extension on 13 April 2003 on a charge of murder. When lawyers visited him at Hanuman Dhoka DPO on 24 April 2003, he reportedly complained of acute pain in the parts of his body which had been beaten. He allegedly received no medical attention.

1151. **Satya Narayan Sada**, a resident of Ward No. 6, Gongbu VDC, Balaju, Kathmandu District, was reportedly arrested without warrant by four policemen on 16 April 2003 on suspicion of rape and taken to the Ward Police Station, Maharahgun, where he was allegedly beaten with plastic pipes and bamboo sticks on his back and on the soles of his feet, slapped and punched on the face. According to the information received, he was taken to the Hanuman Dhoka DPO and then presented to the District Court for a remand extension on 18 April 2003 which was granted for a period of five days. When the lawyers visited him on 24 April 2003 he reportedly complained that he had difficulty walking and said that he felt frightened every now and then. He allegedly received no medical attention.

1152. **Raj Kumar Rai**, a resident of Old Baneshwor, Kathmandu, was reportedly arrested on 17 April 2003 after a clash between students and the police at the Ratna Rajyalakshmi Campus, where he was studying. He was allegedly taken to the Mahendra Police Club, which is said to be an unofficial place of detention in

Kathmandu, where he was allegedly beaten with bamboo sticks on his back and thighs and kicked. He was reportedly brought to the Ward Police Office, Durbarmarg, in the afternoon and on the following day to Hanuman Dhoka DPO and was presented to the Chief District Officer's Office on 28 April 2003 on a charge of committing a public offence. He was allegedly taken to the Birendra Police Hospital.

1153. **Hari Prasad Shrestha**, a resident of New Bus Park, Balaju, Kathmandu, was reportedly arrested by the police from the Ward Police Station, Balaju, on 18 April 2003 on suspicion of rape. In the Ward Police Station, he was allegedly lashed on the palms of his hands and fingers with bamboo sticks, beaten on the thighs, back, buttocks and legs, and punched and slapped in the face. On 21 April 2003, he was reportedly taken to Hanuman Dhoka DPO. According to the information received, in the Interrogation Section two policemen forced him to lie down on the floor, tied both his legs, whipped him on the soles of his feet for about half an hour with a plastic pipe after which he was forced to jump up and down for about 10 minutes. He was also allegedly punched, slapped in the face and kicked on the legs. On 22 April 2003 he was reportedly presented to the District Court for a remand extension which was granted for a period of seven days. When lawyers visited him at Hanuman Dhoka DPO he reportedly complained of suffering from insomnia and extreme anxiety, he was unable to bend his legs while sitting down, he was suffering from continuous high fever during the night, the thumb on his left hand had swollen up and become stiff so that he was unable to hold anything or move it freely and wounds and contusions could be seen clearly on his hands, legs, thighs and back and he had sustained bruises on his face. He is believed to have received no medical attention. After an application for his physical and mental check-up under the Torture Compensation Act on 1 May 2003 was reportedly registered by his lawyers, the Court ordered a medical check-up at a Government Hospital to be carried out within a period of three days.

1154. **S. L.**, a 17-year-old resident of Balkumari, Kathmandu, was reportedly arrested on 23 April 2003 and taken to the Ward Police Station, Tinkune, where his legs were allegedly tied together and a wooden stick inserted between them and where he was reportedly beaten with a plastic pipe on his back, arms and buttocks. He was reportedly also made to lie face down on the floor and beaten on the soles of the feet for about one hour and a half, after which he was allegedly made to jump up and down on the floor for about 10 minutes. He was reportedly transferred to the Hanumandhoka DPO on 27 April 2003. He was allegedly presented to the CDO for the remand extension on a charge of public offence on 6 May 2003 and his period of remand was extended for five days. Lawyers who visited him at Hanumandhoka DPO on 12 May 2003 reportedly observed that scars could be seen all over his body. He allegedly received no medical examination or treatment.

1155. **Rudra Shikari**, a resident of Kiranteshwor, Gaurighat, Kathmandu, was reportedly arrested on 27 April 2003 and taken to the Ward Police Station, Budhanilkantha, where he was allegedly beaten on the soles of his feet, his back, calves of his legs, with a wooden stick, punched and kicked by six policemen. He was reportedly transferred to the Hanuman Dhoka DPO on 28 April 2003 and presented to the Office of the CDO for an extension to his remand under a public offences charge on 5 May 2003. He allegedly received no medical treatment.

1156. **Sanjay Yonzon**, a resident of Gongbu, Kathmandu, was reportedly arrested without warrant on 6 May 2003 and taken to the Ward Police Station, Narayanthan, where he was allegedly made to lie down on the floor, beaten on the soles of his feet with a wooden stick and forced to jump up and down continuously. On 7 May 2003 he was reportedly presented to the Kathmandu District Court for a remand extension on charges of fraud and then transferred to Hanuman Dhoka DPO. In the Interrogation Section at Hanumandhoka DPO, he was reportedly subjected to further beatings. Lawyers who visited him at Hanuman Dhoka DPO on 12 May 2003 reportedly observed a blood clot on his left calf. He allegedly received no medical attention.

1157. By the same letter, the Special Rapporteur advised the Government that he had received further information on **Bidur Khadka** and **Santosh Karki**, aged 13, who were reportedly arrested on 30 December 2001 and 19 January 2002 respectively. The Special Rapporteur on the question of torture and the Chairman-Rapporteur of the Working group on arbitrary detention sent a joint urgent appeal in connection with this case on 24 January 2002 (see E/CN.4/2003/68/Add.1, para. 1023). According to new information received, they were produced in the Special Court of Kathmandu on 11 February 2002 and remanded into custody for 10 days. Santosh Karki reportedly presented a swollen face during the hearing. They allegedly received no medical attention.

1158. The Special Rapporteur had also received further information on **Gopal Budhathoki**, the editor of Sanghu weekly newspaper who was reportedly arrested on 3 March 2002. The Special Rapporteur sent an urgent appeal in connection with this case on 14 March 2002. By letter dated 2 April 2002, the Government responded that he had been released on 26 March 2002 (see E/CN.4/2003/68/Add.1, paras 1026 and 1027). According to new information received, while in detention, he was kept in an isolation cell with no ventilation and no light with his head hooded and his hands cuffed for 24 days, being allowed to remove the hood only to eat or when going to the toilet.

1159. The Special Rapporteur had also received further information regarding the case of **Krishna Sen**, a journalist who was reportedly arrested on 20 May 2002 and who reportedly died in custody. The Special Rapporteur included this case in a letter transmitted to the Government on 2 September 2002 (see E/CN.4/2003/68/Add.1, para. 1016). According to further information received, a police officer allegedly involved in his death was reportedly awarded on 17 October 2002 a prize for discharging his duties.

1160. By letter dated 17 September 2003, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1161. **Masgit Maniyar** was reportedly arrested on 27 February 2002 by approximately 30 army personnel who surrounded and searched his home at Municipality -3, Nepalgunj, Banke district. Some members of the family who asked for the reason for the search were allegedly kicked and punched. Masgit Maniyar was allegedly taken to Chisapani army camp, where his relatives were allegedly not allowed to visit him. According to the information received, he was eventually released after his family paid part of a bribe. It is reported that as he could not pay the

rest of the sum, he fled to India. On 3 April 2002, his 18-year-old daughter, **Tabsum Maniyar**, aged 18, and his 16-year-old niece **T. M.**, were reportedly arrested. Army personnel reportedly told the family that the two girls would be released once the totality of the sum required would be paid. They were both reportedly repeatedly raped while in detention at Chisapani camp. According to the information received, T. M. started bleeding severely and the two girls were taken to Nepalgunj bazaar. On the following day, T. M. was reportedly taken to a doctor. The two cousins were allegedly threatened with death to prevent them from filing a complaint. Since this incident, Tabsum Maniyar is reportedly suffering from a serious mentally disorder. A joint urgent appeal in connection with this case was sent by the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women on 6 January 2003 (see below).

1162. **Mrs. F**, a 30-year-old woman running a small teashop in Mahottari district, was allegedly harassed by policemen from the Chhinamasta APF camp, who reportedly told her not to open her teashop until late at night. According to the information received, on 16 July 2002, Mrs F was asleep at home with her 3-year-old son when five APF personnel, believed to be from the Chhinamasta APF camp, broke into the house, gagged her and carried her off. On the following day, she was reportedly found unconsciously, lying naked in the jungle about 700 metres west of the Bhamshi Bridge. She allegedly had bruises on her face and breasts and swelling around her genital area. She was reportedly taken to Janakpur zonal hospital for examination and treatment. Doctors reportedly suspected that she had been raped and referred her for examination by a neuro-physician as she was suffering from paralysis. She allegedly remained semi-conscious for 10 days. On 1 August 2002 she was reportedly admitted to the TU Teaching Hospital in Maharajgunj, Kathmandu, for treatment, where she allegedly stayed for 16 days. On 15 August 2002, her medical report was reportedly presented by her relatives to the Mahottari District Police Office and a formal complaint was lodged on her behalf under the Torture Compensation Act. However, a Superintendent of Police reportedly initially refused to accept the complaint, citing failure to comply with the 35-day deadline. After pressure from local people, the police allegedly agreed to file a case in court for gang-rape and attempted murder. However, no case was known to have been filed in court against the accused. On 24 November 2002 an inspector at the District Police Office allegedly informed Mrs. F that she would be taken to the Chhinamasta Armed Police Force camp to identify the accused, but this identification parade had allegedly not taken place.

1163. **Sita Chaudhary**, from Patariya VDC, Kailali district, was reportedly blindfolded and raped by members of the APF on 10 September 2002 during a search operation in the village. At the same time, her husband was allegedly severely beaten and subsequently shot dead. **Sri Krishna Devi**, their neighbour, who was allegedly pregnant at that time, was reportedly taken to Sita Chadhary's house, where she was allegedly raped as well.

1164. By letter dated 17 November 2003, sent jointly with the Special Rapporteur on violence against women and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information according to which "**Ms. X**", a 21-year-old student from Kavre district studying in Kathmandu and

member of an organization affiliated to the Communist Party of Nepal (CPN) (Maoist), was reportedly arrested at her room in Kathmandu on 3 September 2002 by army personnel and taken to the Balaju army barracks (about 50 km northwest of Kathmandu) where she was allegedly kept incommunicado for 25 days in a small, dirty damp room, with insufficient food and no toilet facilities. She was reportedly subjected to beating on the soles of the feet with a rubber pipe almost every day, her head was allegedly banged against the wall, her chest poked and pressure applied to her neck so that she felt she was being suffocated. She was allegedly hung upside down by a rope on three occasions and subjected to verbal abuse of a sexual nature and humiliation. She was allegedly not given any medical treatment. According to the information received. On 28 September 2002 she was transferred to the Hanumandhoka District Police Office (DPO), where she was held for 20 days, and then sent to Central Jail, Kathmandu. A habeas corpus petition was reportedly filed on her behalf in Kavre district. She was reported released on bail on 4 April 2003.

1165. By the same letter, the Special Rapporteur advised the Government that he had received further information regarding **Nita Gautam** and **Shusila Thapa**, members of the All Nepal National Independent Students' Union (Revolutionary), who were reportedly arrested by police on 17 July 2002 and whose cases were included in a joint urgent appeal sent by 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 Chairman-Rapporteur of the Working Group on Arbitrary Detention and to which the Government responded by letter dated 30 September 2002 (see E/CN.4/2003/68/Add.1, paras 1036-1037 and E/CN.4/2003/67/Add.1, paras 411 and 420). In the letter dated 30 September 2002, the Government indicated that Shusila Thapa had not been arrested and that Nita Gautam was under detention at Central Jail in Kathmandu. However, according to new information received, upon arrest, Nita Gautam was taken to the Ward Police Station in Boudha, where she was kept for about three hours. She was reportedly blindfolded with her own shawl and taken to the Mahendra Police Club in Kathmandu, where, still blindfolded, she was allegedly made to lie on the ground, beaten by several policemen with wooden sticks on her thighs and shoulders, stamped on, kicked in the face, threatened with being subjected to electric shocks and subjected to further ill-treatment when she denied accusations of being a Maoist. Three days later, she was reportedly brought to the Ward Police Office in Tinkune, where she was allegedly threatened with being strip-naked and that pictures would be sent to members of her family. On 21 January 2003, she was reportedly transferred to Hanumandhoka DPO and held under the Terrorist and Disruptive Activities Act (TADA). She was reportedly presented to court on 26 January 2003 and remanded for a further period. Lawyers who visited her in custody on 4 February 2003, reportedly saw bruises and contusions all over her body, especially on her back, and blisters on her thighs and that she could not stand properly. She also allegedly complained of wounds and blisters in the vaginal area which were very painful. Following the intervention of the lawyers in the case, she was reportedly taken to Bir hospital in Kathmandu on 21 February 2003. She was eventually released on 26 March 2003. No investigation into the allegations of torture had allegedly been undertaken. Sushila Thapa, she was reportedly taken to the Ward Police Station in Boudha, where she was allegedly blindfolded and interrogated by an Inspector. She was allegedly made to lie on a bench and beaten several times by policemen wooden sticks. Later on that day, she was reportedly brought to the Mahendra Police Club in Kathmandu. According to

the information received, her legs were tied together and she was made to lie on a table and beaten with a wooden stick on the soles of her feet and on her thighs. She was allegedly subjected to further ill-treatment as she protested her innocence. She was reportedly transferred to the Ward Police Station at Tinkune where the police allegedly threatened to send photos of her in the nude to her family members and to post them up in public places. When lawyers visited her in custody she reportedly complained of numbness in her feet, weakness, pain in her joints and nightmares. She allegedly received no medical assistance. She was reportedly presented to the District Court on 27 January 2003 to extend her period of remand and eventually released on 26 March 2003. No investigation into the allegations of torture had been carried out.

1166. By letter dated 29 September 2003, sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information on the following individual cases. By letter dated 10 September 2003, the Government responded to some of them.

1167. **Champa Bishwa Karma** (f), an alleged Maoist activist from Mahadevpuri-2, Banke district, was reportedly arrested from Kasura Village District Committee on 30 January 2002 by police in uniform and taken to the police office known as “no. 2 Gulma”, where she was allegedly beaten with a lead pipe on her back and subjected to other forms of ill-treatment. She was allegedly subjected to this treatment with a view to make her resign from the District Committee of the All Nepal Revolutionary Women’s Association (Maoist) and to give information about other members.

1168. The Government reported that she had been released on 6 July 2003.

1169. **Rewati Sapkota**, a journalist, was reportedly arrested at his home in Kathmandu on 24 May 2002 by a police inspector and interrogated during five days and four nights about other journalists and human rights activists. While in detention, he was allegedly severely beaten with bamboo sticks and beaten on the legs while blindfolded and immobilized. He was allegedly also left in the sun for prolonged periods. He was reportedly held in a small and dirty cell with 12 other detainees, before being released.

1170. The Government reported that he had been released on 8 June 2002.

1171. **Hari Lamsal**, a student of Tribhuvan University, Kirtipur, Kathmandu, residing at Naya Bazar-16, Kathmandu, was reportedly arrested on 15 June 2002 by army personnel on suspicion of being a supporter of the Communist Party of Nepal (Maoist) and taken to an unknown army barracks where he was allegedly held for about four days. According to the information received, during that time, over a period of two days, for about four hours a day, he was subjected to beatings with a bamboo stick all over his body and electric shocks. He was allegedly buried in the ground, put in a cave and hung on a tree. He was reportedly later transferred to Hanuman Dhoka DPO where he was allegedly held for 25 days before being sent to Central Jail, Kathmandu. While at the DPO, he was reportedly subjected to further torture and ill-treatment, and in particular, to beatings to the soles of his feet. A habeas corpus petition was allegedly filed on his behalf on 7 January 2003 and he was

released on 21 February 2003. No investigation was known to have taken place into this case.

1172. The Government reported that he had been released on 25 February 2003.

1173. **Deepak Pandey**, a journalist, was reportedly seriously beaten by two allegedly inebriated police officers in civilian clothes on 8 October 2002 when he was covering a fire at a furniture store in the centre of Kathmandu. According to the information received, he appealed for help to other police officers but the latter arrested him and placed him in a vehicle, in which he was allegedly beaten again until he was taken to a hospital. He was reportedly released upon the intervention of a senior officer. According to medical reports, his body was covered with bruises, he vomited blood and sustained internal injuries.

1174. **Ramesh Sharma**, a member of a youth organization affiliated to the Communist Party of Nepal-United Marxist-Leninist (CPN-UML), was reportedly arrested on 11 May 2003 after he allegedly took part in a political demonstration in Ratnapark, Kathmandu, along with the mainstream political parties which was part of a campaign called "agitation against regression", aimed at the reinstatement of parliament and the restoration of democracy. The police allegedly lathi-charged the demonstration and a number of people were reportedly injured, including Ramesh Sharma, who was allegedly repeatedly beaten by the police with an iron-spiked stick. According to the information received, he was taken to Tribhuvan University Teaching Hospital for treatment, but lost one eye as a result of the beating.

1175. **Prithwi Kumar Prajapati**, an alleged member of the All Nepal Revolutionary Peasants' Association, which is connected with the Nepal Workers and Peasants' Party, was reportedly injured by the police on 14 May 2003 when he allegedly took part in a political demonstration in Kathmandu, along with the mainstream political parties, which was part of a campaign called "agitation against regression" aimed at the reinstatement of parliament and the restoration of democracy. The police allegedly lobbed tear gas in order to disperse the rally, and attacked the crowd. He was allegedly beaten by police with a gun butt, fell down unconscious in the street and received a stab wound to his abdomen, allegedly made by a police officer carrying a sharp weapon. He allegedly bled for some time before he was taken to Bir Hospital, where he allegedly received no adequate medical treatment and was only given a saline drip.

1176. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002, 2001, 2000, 1999, 1998 and 1997 for which no response had been received.

Urgent appeals

1177. On 6 January 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women concerning **T. M.** (f), aged 16, her cousin **Tabsum Maniyar** (f), aged 18, and **Masgit Maniyar**. According to information received, on 24 December 2002, army personnel visited their home forced them to retract, in front of TV cameras, the allegations of rape and the torture of Masgit Maniyar which reportedly occurred in custody at Chisapani army camp near

Nepalgunj, Banke district. The rapes reportedly took place in April 2002 and the torture in February 2002. On 31 December 2002, Tabsum Maniyar together with her mother and uncle were reportedly made to attend a public meeting of local civic leaders and journalists in the office of the Chief District Officer in Nepalgunj, Banke district, and asked to deny the statements regarding the allegations of rape and torture.

1178. On 6 January 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur on the Working Group on Arbitrary Detention concerning **Arjun Adhikary** and his brother **Dhurba Adhikary**, who were reportedly arrested from their rented house in Nayabazar, Kirtipur, near Kathmandu, by army personnel on 27 December 2002. They were reportedly taken away to an unknown destination. The reason for the arrests of the two brothers was unknown.

1179. On 27 January 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur on the Working Group on Arbitrary Detention concerning **Janak Prasad Adhikari**, who was reportedly re-arrested by police on 24 January 2003 as he left Nuwakot district jail, Central Region, following a Supreme Court order for his release. He was reportedly seen being taken away in a vehicle belonging to the district education office. It was believed that he could have been taken to the Nuwakot district police office. The reasons for the repeated arrests of Janak Prasad Adhikari were not known. It was believed that he could have been detained on suspicion of being a supporter or sympathizer of the Communist Party of Nepal (CPN) (Maoist).

1180. On 24 April 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur on 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 **Bipin Bhandari** and **Dil Bahadur Rai**, two students who were allegedly arrested on 17 June 2002 in Kathmandu and whose respective cases were included in an urgent appeal sent on 21 June 2002 to which the Government responded by letter dated 30 September 2002 (E/CN.4/2003/68/Add.1, paras 1036-1037). According to new information received, Bipin Bhandari and Dil Bahadur Rai were being held in incommunicado detention at the premises of the Para Battalion of the Nepal Army in Maharajgunj, Kathmandu, where they were believed to be in poor health. In particular, Dil Bahadur Rai was allegedly being denied access to medical treatment. On 19 June 2002, their relatives reportedly lodged a habeas corpus petition on their behalf in the Supreme Court. At a hearing of the petition held on 21 April 2003, the Supreme Court allegedly requested the National Human Rights Commission (NHRC), which it had reportedly earlier asked to investigate the report that the students had been detained, to present its findings. The whereabouts and health of another student included in the above-mentioned urgent appeal, **Ramhari Rupakheti**, were reportedly unknown and serious fears were expressed for his safety. A fourth student, **Narvin Rai**, who was allegedly arrested on 26 April 2002 in Kalimati, was also reportedly detained incommunicado at the premises of the Para Battalion of the Nepal Army in Maharajgunj. He was allegedly in poor health. The whereabouts of two other men who were allegedly arrested along with Narvin Rai on 26 April 2002, **Purma Poudel** and **Ishwar Lama**, were reportedly also unknown. According to the information received, the students were alleged by the authorities to belong to the All Nepal National Independent Students' Union (Revolutionary).

1181. On 19 May 2003, the Special Rapporteur sent an urgent appeal concerning **Keshav Timilsina**, a painter who was reportedly arrested by three policemen from the District Police Office, Hanumandhoka, at his home in Patan, on 6 May 2003, on suspicion of involvement in a robbery and murder. He was reportedly taken to the District Police Office, Hanumandhoka and was produced before the Kathmandu District Court on 7 May. The judge reportedly granted the police a further seven days to continue their investigation, but allegedly did not question Keshav Timilsina about his treatment by the police despite provisions in the Torture Compensation Act requiring him to do so. Whilst being interrogated during his first two days at the District Police Office, Hanumandhoka, Keshav Timilsina was allegedly forced to lie on the ground and beaten continuously for about half an hour on his thigh and back by between eight and ten policemen. His legs were allegedly tied together with a stick inserted between them so that he was unable to move them. While in this position, he was reportedly beaten with bamboo sticks and plastic pipes on his thighs, legs and the soles of his feet. The policemen also reportedly dragged him by his hair and trampled on him with their boots. He was allegedly denied food and medical assistance for the two days. When lawyers visited him on 8 May 2003, Keshav Timilsina complained that he was suffering from loss of appetite, frequent perspiration and sleep disturbance. The lawyers reportedly noted marks on his body. According to the information received, the lawyers tried to visit him again the next day to prepare an application for him to be medically examined, but were refused access. They were told that following a special order from the Superintendent of Police (SP), no one was allowed to visit Keshav Timilsina. When the lawyers tried to visit him on 14 May, lower ranking police reportedly told them that Keshav Timilsina had been taken to court. He has not however, been seen at the court house.

1182. On 21 May 2003, the Special Rapporteur sent an urgent appeal concerning **Deepak Laya Magar, Ram Kumar Karki and Jairam Bhandari**, who were reportedly being held at Hanumandhoka district police station, Kathmandu, and who were allegedly in need of immediate and appropriate medical treatment as a result of the treatment they were allegedly subjected to at the Hanumandhoka district police station. Lawyers who visited them reportedly lodged a complaint in Kathmandu district court seeking an order for the prisoners to be taken to hospital, to no avail. On 15 May 2003, when Ram Chandra Giri, a lawyer, went to Hanumandhoka police station with the court order, a sub-inspector reportedly called the three prisoners into his office, accused them of lying to the lawyer and punched Deepak Laya Magar. According to the information received, the sub-inspector also blamed lawyers for providing protection for criminals, whom he allegedly said deserved to be tortured. He also reportedly intimidated Ram Chandra Giri. The prisoners were finally taken to hospital on 15 May 2003. Before they went, another assistant sub-inspector allegedly threatened them that once they returned, they would get what he referred to as “the treatment”.

1183. On 6 June 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur on the Working Group on Arbitrary Detention concerning the following eight persons from the dalit-Ram community who were reportedly arrested on 27 May 2003, by members of the police in Siraha, in connection with looting which occurred at Bishnu Shrestha's house in Bastipur Village Development Committee: **Ashok Ram, Phaguniya Ram, Chamak Ram, Hari Har Ram, Arjun Ram and Ram Lakhan Ram, Rupi Ram and Pabitar Ram**, all believed to be

members of a band that had gone to Bishnu Shrestha's home to play on the occasion of his son's wedding on 26 May 2003. It was alleged that they had been ill-treated and were being denied access to legal counsel or family visits. As a result of the treatment they were allegedly subjected to, Chamak Ram, Ram Lakhan Ram and Ashok Ram were reportedly brought to the hospital on 29 May 2003. On the following day, they were reportedly discharged back into detention.

1184. On 1 July 2003, the Special Rapporteur sent an urgent appeal concerning **19 Tibetans**, including four women, who were reportedly detained in the town of Sanphebagar, Achham district, on 24 June 2003, after crossing the border from Tibet Autonomous Region, China. They were allegedly accused of illegally entering the country and were reportedly being detained at Kailili police station. They were believed to be at risk of being returned to China, where, in view of previous reports received, it was feared that they could be detained without charges and subjected to torture or other forms of ill-treatment.

1185. On 14 August 2003, 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 concerning **Nirmal Kumar Budhathoki** (f), a journalist, and her husband, **Muma Ram Khanal**, also a journalist, who were reportedly arrested by security forces in Sankhumul, Kathmandu, in May 2002. While her husband was released some weeks later, Nirmal Kumar Budhathoki was reportedly still in detention at the Bhairav Nath Barrack in Maharajgunj, where she was allegedly tortured. As a result, she was allegedly facing serious mental health issues.

1186. On 9 September 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur on the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the right to health concerning **Manoj Lama**, allegedly arrested on 30 July 2003, **Abdesh Singh**, allegedly arrested on 30 July, and **Kumar Lama**, allegedly arrested on 1 July 2003, who were reportedly being held in incommunicado detention at the Hanumandhoka District Police Office (DPO), Kathmandu. The three detainees had allegedly been subjected to severe beatings and other forms of ill-treatment while in custody. Three applications had reportedly been lodged under the Torture Compensation Act of Nepal, with the District Court of Kathmandu, on their behalf, for them to be allowed to undergo medical examinations. A court had reportedly ordered the DPO to take these detainees to hospital. However, they allegedly received no medical treatment.

1187. By letter dated 10 December 2003, the Government responded that Manoj Lama would be released upon payment of a bail, that Abdesh Singh was not under police detention and that Kumar Lama had been released on bail.

1188. On 12 September 2003, the Special Rapporteur sent an urgent appeal concerning **Ravi Kiran Regmi** (also known as Nirjeeb), who was reportedly arrested by the army security forces, on suspicion of supporting the Maoists, on 4 September 2003, and brought to the Bharatpur Army Barrack, where he had allegedly been injured by army personnel. He was allegedly also suffering from diabetes, high blood pressure and a problem with his kidneys. He was reportedly being held in incommunicado detention at an undisclosed location. He was allegedly suspected of

supporting the Maoists. According to the information received, he was involved in human rights activities in his local area for a long time.

1189. On 16 September 2003, the Special Rapporteur sent an urgent appeal concerning **Sita Ram Baral**, a journalist, who was reportedly arrested on 13 September 2003 in the Sinamangal and Tinkune area, Kathmandu, and taken for questioning by security forces. His whereabouts had not yet been disclosed.

1190. By letter dated 12 November 2003, the Government informed that Sita Ram Baral had been released on 13 September 2003. By a second letter dated 10 December 2003, the Government informed that he had actually been released on 17 September 2003.

1191. On 16 September 2003, 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 concerning **Shanta Shrestha** (f), a 68-year-old feminist leader and activist, **Sobhit Yadav**, a member of the Madheshi Liberation Front, an organization representing some sections of the Terai community in southern Nepal and which is allegedly linked to the Communist Party of Nepal (CPN) (Maoist), **Balaram Sharma** (also known as **Poorna Birma**) a writer and poet, as well as **Ram Hari Chaulagain**, a journalist. Their whereabouts were reportedly unknown since their arrest in late August 2003. An urgent appeal had been sent in connection with the case of Shanta Shrestha on 7 June 2002 (E/CN.4/68/Add.1, para. 1033).

1192. By letter dated 12 November 2003, the Government informed that Ram Hari Chaulagain had been released on 24 October 2003. By letter dated 10 December 2003, the Government informed that Shanta Shrestha had been released on 19 September 2003 and Balaram Sharma on 13 November 2003.

1193. On 18 September 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working group on arbitrary detention concerning **Om Bahadur Thapa**, who was reportedly arrested on 11 September at his watch-repair shop at the Prasansa Time Centre, Kupandol, Lalitpur district, by two plain-clothes security personnel believed to be from the Gaushala Ward Police Post. He was allegedly taken by taxi to the police post and transferred to Singha Durbar army barracks on 12 September 2003. He was reportedly being detained at the army barracks where he was allegedly kept blindfolded, denied food and subjected to indiscriminate beatings. He was allegedly arrested on suspicion of giving support to members of the Communist Party of Nepal (CPN) (Maoist), although he was allegedly not a member of any political party.

1194. By letter dated 10 December 2003, the Government informed that Om Bahadur Thapa was not under police detention.

1195. On 22 September 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Mophiuddin Khan**, who was reportedly arrested by Armed Police Force (APF) personnel in Bhalubang, Dang district, on 11 September 2003. The reasons for his arrest and his whereabouts had reportedly not been disclosed since then. However, it was believed that he could have been arrested on suspicion of being a member or a

supporter of the Communist Party of Nepal (CPN) (Maoist). The National Human Rights Commission (NHRC) was reportedly making inquiries on the case.

1196. On 23 September 2003, 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 Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Shubhashankar Kandel**, managing editor of a weekly newspaper, who was reportedly arrested on 9 September 2003 by plain-clothes security forces personnel in Balaju Banasthali and taken away for interrogation. It was believed that Shubhashankar Kandel was detained at the Chhauni army barracks in Kathmandu, but his whereabouts had reportedly not been disclosed. He was allegedly arrested on suspicion of being a member or supporter of the Communist Party of Nepal (CPN) (Maoist).

1197. On 26 September 2003, 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, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Navin Pun**, a journalist also known as **Bivas**, who was reportedly arrested by plain-clothes security force personnel on 21 September 2003 in Kirtipur, Kathmandu, and whose whereabouts had allegedly not been disclosed. Navin Pun was an alleged member of the Nepal Indigenous Journalists' Association (NIJA) and that he reportedly published an essay collection which covered an incident that allegedly took place in Dang during the state of emergency in 2002.

1198. On 1 October 2003, 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 Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Dhana Shahi** and **Shanu Shahi** (f), who were reportedly arrested at their home in Bhaktapur town, Kathmandu valley, on 26 September 2003 by army personnel. It was believed that they could have been driven to the Suryabinayak army barracks in Bhaktapur, but their whereabouts had reportedly not been confirmed by the authorities. The National Human Rights Commission had reportedly initiated an inquiry. The reasons for their arrest were not known but it was thought that they could have been detained on suspicion of having links with the Communist Party of Nepal (CPN) (Maoist).

1199. By letter dated 10 December 2003, the Government reported that they were not under police detention.

1200. On 1 October 2003, the Special Rapporteur sent a second joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Lokendra Dhvaj Khand** and **Ek Nath Chaulagain**, who were reportedly arrested on 27 August 2003 by members of the Royal Nepalese Army, and on 11 September 2003 by plain clothes security forces personnel, respectively, and whose whereabouts had allegedly not been disclosed.

1201. By letter dated 10 December 2003, the Government reported that Lokendra Dhvaj Khand was not under police detention.

1202. On 1 October 2003, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **A. L.**, aged 16, and his friend (whose name is not known), **Nirmala Bhandari** (f) and **Ujjwal Sukla**, who were reportedly arrested between 27 August and 23 September 2003 in Lalitpur and Balaju by members of the security forces and whose whereabouts had allegedly not been disclosed.

1203. On 1 October 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Prakash Chandra Lohani**, a student, who was reportedly arrested from his brother's room in Kathmandu by nine plain-clothes security personnel on 12 September 2003. His brother was allegedly not told where he was taken. His relatives had since then unsuccessfully attempted to locate him, including through the National Human Rights Commission (NHRC). It is thought that he was arrested in connection with arms, in particular bomb-making equipment, which was found by the army in his rented room at Hanuman Dhoka, Kathmandu. By the same urgent appeal, concern was expressed over information received according to which **Pradeep Adhikari**, a student, was arrested by security personnel in civilian clothing on 22 September 2003 in Lokheole, Kathmandu. Her mother was reportedly not told where her son was taken. His relatives had since then unsuccessfully attempted to locate him, including through the NHRC, the International Committee of the Red Cross (ICRC) and visits to police stations.

1204. By letter dated 10 December 2003, the Government reported that they were not under police detention.

1205. On 3 October 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Dharma Raj Dangol**, a 19-year-old artist and sculptor, who was reportedly arrested by army personnel from the Rudrayani Temple, Khokana Village Development Committee (VDC), Lalitpur district, Kathmandu, on 23 September 2003, and taken to an undisclosed location. The reasons for his arrest were reportedly not known. The National Human Rights Commission (NHRC) reportedly initiated an inquiry into this arrest. The Royal Nepal Army (RNA) was reportedly informed by the relatives, but no response had allegedly been made to this inquiry.

1206. By letter dated 10 December 2003, the Government informed that Dharma Raj Dangol was not under police detention.

1207. On 3 October 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to health concerning **Deepak Thapa**, who was reportedly arrested by the police on 20 September 2003 at Koteswor, Kathmandu, beaten with the butt of a gun and kicked to the ground by the two arresting officers. He was reportedly subsequently taken to the Koteswor police station, and on the following day, to the District Police Office in Hanumandhoka, Kathmandu, where he was reportedly still being held and where he was allegedly beaten as well. He was reportedly taken to a court on 24 September 2003, but the judge did allegedly not ask

him any questions about his treatment in police custody. On 26 September 2003 he reportedly told his lawyer that he was suffering from muscle pain and a fever. The lawyer reportedly also noticed several red scars on his arms and thighs. However, he was allegedly denied medical treatment. According to the information received, due to the Dashain Holidays, courts were being closed for more than two weeks and the police had not taken any initiative to take him to the hospital.

1208. By letter dated 10 December 2003, the Government informed that Deepak Thapa was not under police detention.

1209. On 6 October 2003, 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, the Special Representative on human rights defenders and the Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Ram Bahadur Limbu**, a member of the central committee of the Kirat Yakthung Chumlung (KYC), a non-governmental organization concerned with the preservation and promotion of the Limbu ethnic group. He was reportedly arrested by plain-clothed security personnel on 26 September 2003 in Indrapur Village Development Committee (VDC), Morand district and being held in incommunicado detention. He was allegedly publicly accused of being affiliated to the Communist Party of Nepal (CPN) (Maoist).

1210. On 15 October 2003, the Special Rapporteur sent an urgent appeal concerning **Deepak Kumar Chaudhary** and **six labourers**, including a woman, from Rolpa district, who were reportedly arrested by the army on 1 October 2003 at the Uma Mahashwar Brick factory, Balkhu, Kathmandu. An eighth person who was reportedly arrested with them, **Govinda Pun**, was released on 4 October 2003. He reportedly confirmed that he had been held at Balaju Army post along with Deepak Kumar Chaudhary and the six labourers. On the same day, Deepak Kumar Chaudhary's relatives went to the army post and were allegedly told by army personnel that all seven above-mentioned individuals were alive and that investigations were ongoing. However, they were allegedly subsequently informed that they were not held there. The relatives reportedly went back to the army post on 14 October 2003 and were allegedly told again that they were not detained there.

1211. On 15 October 2003, 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 concerning **Prem Sagar Karmacharya**, a central committee member of the *Lyamha Pucha*, a youth organization, and committee secretary of the Blood Donors' Club. He was reportedly arrested on 10 October 2003 at his home in Bagbazar, Kathmandu, and taken away to an unknown location. Since then, his whereabouts had allegedly not been disclosed. Inquiries were reportedly initiated after his relatives allegedly the District Police Office (DPO) and the National Human Rights Commission (NHRC). The reason for his arrest had allegedly not been disclosed either. He was said to be a former member of the Communist Party of Nepal-United Marxist Leninist (CPN-UML), but to be no longer member of any political party.

1212. On 20 October 2003, 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 Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Ram Chandra Maharjan**, who was reportedly arrested by army personnel on 14 October 2003 at his home in Bhol Dhokha, Ward 8, Lalitpur, Lalitpur district. He and his male tenant were allegedly taken away to an unknown location. While the tenant was reportedly released after several hours, Ram Chandra Maharjan was allegedly kept in detention. His whereabouts and the reason for his alleged arrest had reportedly not been disclosed. It was believed that he could have been taken into custody on suspicion of being involved with the Communist Party of Nepal (CPN) (Maoist).

1213. On 20 October 2003, 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 Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Ram Hari Kadel**, resident of Naya Bazaar, Ward 16, Kathmandu, was reportedly arrested on 12 September 2003 by army personnel at his aunt's house, also in Kathmandu. He had allegedly not been seen since. **R. P. T.**, a 16-year-old student who worked at the glass shop owned by Ram Hari Kadel, was reportedly arrested by four army personnel in plain clothes on 13 September 2003. One week after his arrest he was reportedly taken by army personnel to his home, where he was allegedly allowed to wash, before being taken again. The minor had reportedly not been seen since then. The reasons for their alleged arrest had reportedly not been disclosed but it was believed that they could have been suspected of involvement with the Communist Party of Nepal (CPN) (Maoist).

1214. On 22 October 2003, 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 Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Udaya Raj Gautam**, a teacher and member of the central committee of the Nepal Teachers Organization (NTO), which is said to be close to the the communist parties. He was reportedly arrested by members of the security forces in civilian clothes on 29 September 2003 at his home in Samakhusi, Kathmandu. His whereabouts had reportedly not been disclosed. It was thought that he could have been arrested on suspicion of involvement with the Communist Party of Nepal (Maoist), although his wife has allegedly denied such an involvement.

1215. On 24 October 2003, 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 concerning **Amrit Kadel**, a student, who was reportedly arrested by army personnel in Chabahil, Kathmandu, on 11 October 2003. It was believed that he was being detained at army barracks in Kathmandu, where fears were expressed that he could be at risk of torture. However, local army personnel reportedly denied his arrest. Efforts by the family to locate him, including writing to a government minister, the Home Ministry, the Ministry of Defence and the National Human Rights Commission (NHRC) had reportedly so far failed. Amrit Kadel was believed to have been arrested on suspicion of being involved with the All Nepalese National Free Students Union (Revolutionary) (ANNFSU), which is affiliated with the Communist Party of Nepal. Amrit Kadel is reportedly the younger brother of **Ram Hari Kadel**, whose whereabouts were allegedly unknown since his reported

arrest on 12 September 2003. An urgent appeal was sent in this connection on 20 October 2003 (see above).

1216. On 27 October 2003, 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 concerning **Subindra Buda Magar** and **Bandhu Dev Pandey**, both residents of Balaju, near Kathmandu, whose whereabouts were reportedly unknown since their alleged arrest by plain-clothes security personnel on 11 and 16 October 2003 respectively. According to the information received, Bandhu Dev Pandey had been previously arrested under the Terrorist and Disruptive Activities (Control and Punishment) Act (TADA) on 26 January 2002. He was reportedly released on 30 October 2002 on the orders of the Supreme Court. While in detention, he was allegedly severely beaten.

1217. On 27 October 2003, the Special Rapporteur sent an urgent appeal concerning **Binash Thapa**, who was reportedly arrested and taken away by plain-clothes security personnel in Charkilla, Dhading district, on 1 October 2003, when he was allegedly sitting with a group of friends at a hotel. The group was reportedly assaulted by the security personnel. According to the information received, his whereabouts and the reasons for his alleged arrest had not yet been disclosed.

1218. On 28 October 2003, the Special Rapporteur sent an urgent appeal concerning **Kabir Kumar Shrestha** and **Raj Kumar Karki** whose whereabouts were reportedly unknown since their respective reported arrests by security forces personnel in Kathmandu on 12 September 2003 and 16 October 2003. It was believed that Raj Kumar Karki could have been detained in the No. 1 Bahini army barracks in Balaju, near Kathmandu. However, his whereabouts as well as the reason for his alleged detention had reportedly not been disclosed by the authorities. It was believed that Kabir Kumar Shrestha could have been detained at the Sri Ganjagandh army barracks, in Singha Durbar, Kathmandu. However, his whereabouts as well as the reason for his alleged detention had reportedly not been disclosed by the authorities.

1219. On 30 October 2003, the Special Rapporteur sent an urgent appeal concerning **Min Kumar Koirala**, a student, and a young man known as **Wagle**. They were reportedly arrested by army personnel at the premises of the Dugadh Iron Still Industry in Tripureshwar, Kathmandu on 4 September 2003. They were reportedly arrested along with two other unnamed men on suspicion that they were supplying the rice to members of the Communist Party of Nepal (CPM) (Maoist). The four arrested individuals were allegedly taken to the army barracks in Singha Durbar, Kathmandu, where they were allegedly forced to lie on a cement floor and beaten. While the two unnamed men were reportedly released later the same day, Min Kumar Koirala and Wagle were alleged to still be in detention. Their whereabouts had reportedly not been disclosed.

1220. On 30 October 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Himal Sharma Chapagain**, General Secretary of the All Nepal National Independent Student Union (ANNISU) (Revolutionary), which is affiliated to the Communist Party of Nepal (CPN) (Maoist); his sister **Sharita Devi Sharma** (f), a student, as well as **Bhim Prasad Chaulagain**. Their whereabouts were reportedly unknown since their

arrest by security forces on 21, 23 and 24 October 2003 respectively. Himal Sharma Chapagain was allegedly arrested by security forces personnel while walking along the street in Asan, Kathmandu, on 21 October 2003. Sharita Devi Sharma, was reportedly arrested from her rented room in Baluwatar, Kathmandu, on 23 October 2003. Bhim Prasad Chaulagain was reportedly arrested on 24 October 2003 at the shoe shop where he worked in Kamalachhi, Kathmandu.

1221. On 30 October 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Shyam Kumar Shrestha**, a lawyer and member of the Nepal Bar Association, who was reportedly arrested by individuals believed to be security forces personnel, on 23 October 2003 at his home in Bagbazar, Kathmandu. At the time of the alleged arrest, he was reportedly told that he was taken for questioning to Maharjgunj, in Kathmandu, and that he would be brought back on the following day. However, he was allegedly not been seen since then. The reason and the place of his alleged detention had not been disclosed.

1222. On 3 November 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Pashupati Dhungana, Hari Dev Mandal and Khambalal Gautam**, whose whereabouts were unknown since their alleged arrest on 25 September in Paknajol, 26 September in Kanakpur and 1 October 2003 in Bashundara, respectively. The reasons for their alleged had reportedly not been disclosed. It was believed that they could have been arrested on suspicion of being involved in activities linked with the Communist Party of Nepal (CPN), (Maoist).

1223. On 4 November 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Dinesh Nepali and Sanjay Raya**, a ward level coordinator of the Rastrabadi Milan Kendra (Coordination Centre for Nationalists) in Kanakpur, whose whereabouts were reportedly unknown since their alleged arrest by plain-clothes security personnel in Kathmandu on 15 October 2003 and in Janakpur on 22 October 2003, respectively.

1224. On 6 November 2003, the Special Rapporteur sent an urgent appeal concerning **Uendra Chaulagain**, who was reportedly arrested by security force personnel in plain clothes at his shop in Kathmandu on 25 October 2003. His request to make a phone call to his home was reportedly denied at the time of the arrest and he was allegedly said he would be able to return soon. However, he had allegedly not been seen since then. The reasons for his alleged arrest and detention were not known.

1225. On 7 November 2003, the Special Rapporteur sent an urgent appeal concerning **Gopi Krishna Thapaliya**, a lawyer who was reportedly arrested at his home in Kathmandu on 4 November 2003 by security personnel in plain clothes, and taken away to an unknown place. Attempts to locate him, including through the National Human Rights Commission and the International Committee of the Red Cross reportedly failed. The reasons for his alleged arrest were reportedly not known but fears were expressed that his work as a lawyer or his support for the left-wing Rastriya Janamorcha Nepal (People's Front of Nepal) political party could be connected to his arrest.

1226. On 13 November 2003, 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 Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Bhagirath Kharel, Maha Prasad Angai and Naresh Maharjan**, whose whereabouts were reportedly unknown since they were allegedly arrested by members of the security forces in Samakhusi, Sorakhutte and Kirtipur, respectively, between 6 and 9 November 2003. Efforts to locate them by their respective families, including contacting the police, army, National Human Rights Commission (NHRC) or the International Committee of the Red Cross (ICRC), had so far reportedly failed. Bhagirath Kharel is an alleged former member of the Nepal Teachers Organization (NTO), which is close to the political left in Nepal, particularly the communist parties. It was believed that his former membership of this organization could be connected with his arrest. Maha Prasad Angai is an alleged member of the Nepal Teachers Organization (NTO). It was believed that his arrest could be connected with his reported involvement with these two organizations. Naresh Maharjan had reportedly been previously arrested in April 2002 and held for two months without charge. His previous arrest was thought to have been due to his alleged membership of the All Nepal National Independent Student Union (ANNISU) (Revolutionary). His family allegedly received an anonymous phone call on 10 November saying that Naresh Maharjan would be released after a couple of days.

1227. By letter dated 15 November 2003, the Government responded that they were not under police detention.

1228. On 13 November 2003, the Special Rapporteur sent an urgent appeal concerning **Saha Dev Risal, Purushottam Sapkota and Jagatkrishna Pokharel**, whose whereabouts are reportedly unknown since they were allegedly arrested by security forces personnel in plain clothes in Purano-Kalimati, Gokarna Baluwa Village and Bhaktapu, between 6 and 10 November 2003. Fears had been expressed that Saha Dev Risal injured himself by jumping from a window. Saha Dev Risal is reportedly a former sub-inspector working at the National Investigation Department (NID), a government police intelligence institution in Kathmandu and that he had been in government service for over 20 years. It was thought that Saha Dev Risal could have been arrested because in 2002 he tried to obtain the release from Bhadragol jail in Kathmandu of a relative accused of Maoist activities. The reasons for the alleged arrest of Purushottam Sapkota and Jagatkrishna Pokharel were reportedly unknown.

1229. By letter dated 15 November 2003, the Government responded that they were not under police detention.

1230. On 14 November 2003, 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 Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Arjun Maharjan**, who was reportedly arrested by members of the security forces in plain clothes on 29 October 2003 at the vegetable market near his business in Kirtipur. On the same day, one of his relatives allegedly received an anonymous call saying that Arjun Maharjan had been arrested. According to the information received, later on that day relatives managed to contact him on his mobile phone and although he appeared not able to speak openly he allegedly

confirmed his arrest by the security forces. The relatives were reportedly able to contact him again by phone on 30 October 2003. He allegedly told them that he was being detained “close to them”. Since then his relatives had reportedly had no further contact with him and efforts to locate him by his relatives, including through the National Human Rights Commission, the Ministry of Defence, and Home Ministry, had reportedly so far failed. Arjun Maharjan was reportedly a central committee member of the Nawa Rastriya Mukti Morcha (Newar National Liberation Front), a Newari ethnic organization affiliated with the Communist Party of Nepal (CPN) (Maoist). It was believed that his reported arrest could be connected with his alleged involvement with this organization.

1231. On 17 November 2003, 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 Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Sanjiv Kumar Karna** (also known as **Dipu**), **Pramod Narayan Mandal**, aged 18, **Sailendra Yadav** and **Jitendra Jha**, aged 19, all students, as well as **Durgesh Kumar Labh**, who were reportedly arrested by armed security forces personnel in Janakpur Municipality, Dhanusha district, on 8 October 2003. On the following day their relatives reportedly made inquiries with the Chief District Officer in Dhanusha district, and at the Viman army barracks, but the authorities allegedly denied the arrest. Their whereabouts had reportedly not been disclosed yet. These individuals were alleged to have been arrested on suspicion of being involved in Maoist activities. However, they were said to have no particular political affiliation at the time of their alleged arrest. By the same urgent appeal concern was also expressed over information received according to which **Gyan Bahadur** and **Rajesh Maharjan** were arrested at their homes in Panga, Kirtipur, on 9 November 2003 by security personnel in plain clothes. Their whereabouts were reportedly unknown since then. The reasons for their alleged detention had reportedly not been disclosed either. Although Gyan Bahadur was said not to belong to any political party, it was reported that the cause of his arrest could have been because the authorities suspected him of supporting or having links with the CPN (Maoist). Rajesh Maharjan was allegedly involved seven years ago with the Samyukta Jana Morcha (United People’s Front), a faction of which later split away from the main party to become the CPN (Maoist). However, Rajesh Maharjan was reported to have had no involvement in politics since that time.

1232. On 21 November 2003, the Special Rapporteur sent an urgent appeal concerning **Raj Man Ghole**, an Assistant Sub-inspector at the Police headquarter of the Central Special Task Force in Base Camp, Samakhusi, Kathmandu, who was reportedly accused of having caused a fight amongst the police officer by his superiors and beaten with a bamboo stick, kicked with boots on the face, neck, chest and back on 3 October 2003. He reportedly subsequently lost consciousness, which he allegedly regained on the following day in the emergency ward of Birendra Police Hospital, Maharajganj. He allegedly had difficulties breathing and suffered from severe pain on different parts of the body. He was allegedly given intravenous infusion. The doctors were reportedly told by the police officers that he had been found drunk and unconscious lying on the roadside. However, the Birendra Police Hospital reportedly shows “history of alcohol intake but no signs of alcohol intake (alcohol smell negative)”. According to the information received, Raj Man Ghole has been subjected since then to further threats by police personnel and his complaints

allegedly not taken into account. On 8 October 2003, he was reportedly put into an isolated room and held in incommunicado. On 14 October 2003, he was reportedly requested to submit a letter answering charges that he had been drinking alcohol and fighting in a restaurant and breaching police discipline. On 4 November 2003, Raj Man Ghole reportedly filed a complaint under the Torture Compensation Act. On the same day, he informed the Centre for Victim of Torture (CVICT) that Police Inspectors were continuing to threaten him with death. On several occasions, relatives who tried to visit him were allegedly denied access to the police station.

1233. On 21 November 2003, the Special Rapporteur sent a second urgent appeal concerning **Karsang Dhundrup Lama, Tanka Prasad Tripathi and Bal Ram Karki**, whose whereabouts were reportedly unknown since their alleged arrest by members of the security forces on 14 November 2003 in Swayambu, 17 November 2003 in Kalimati and 13 November 2003 in Maitidevi, respectively.

1234. On 21 November 2003, 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 concerning **Dhana Bahadur Magar**, a journalist, member of the Federation of Nepalese Journalists (FNJ) Central Council and secretary of the FNJ's Kathmandu section, who had reportedly been missing since 18 November 2003, when he was last seen going shopping for stationery. It was believed that he could have been arrested by security forces on suspicion of having close ties with the Communist Party of Nepal (CPN) (Maoist). Urgent appeal concerning Dhana Bahadur Magar had already been sent in the past (E/CN.4/2003/68/Add.1, para. 1039).

1235. On 21 November 2003, the Special Rapporteur sent a second joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression concerning **Navraj Thapa, Resham Bahadur Pun and Deependra Pant**, whose whereabouts are reportedly unknown since their alleged arrest by members of the security forces on 12 November 2003 in Naubise, on 12 November 2003 in Tulsipur and on 13 October 2003 in Kathmandu, respectively. The reasons for their alleged arrests were reportedly not disclosed either but it was believed that they could have been connected with their suspected links with the Communist Party of Nepal (CPN) (Maoist) or the All Nepal National Independent Students Union (ANISU).

1236. On 26 November 2003, the Special Rapporteur sent an urgent appeal concerning **Tara Bhandari (f), Sujindra Maharjan, Shomsher Rupakheti, Ram Krishna Shrestha and Piman Singh Tamang**, whose whereabouts were reportedly unknown since they had allegedly been arrested in Kathmandu between 30 October and 21 November 2003. Efforts by to locate them had reportedly so far failed.

1237. On 26 November 2003, 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 concerning **Shiva Prasad Gautam, Ram Chandra Bhandari, Kedar Gautam, and Ram Prasad Gautam**, whose whereabouts are reportedly unknown since they had allegedly been arrested in Kathmandu between 1 September and 21 November 2003. Shiva Prasad Gautam was said to be a committee member for the Communist Party of Nepal-Unified Marxist Leninist (CPN-UML). Ram Chandra Bhandari was reported to be the general secretary of

Om Vaidic Sanatan Karmakanda Mahasangh Nepal, a non-political Hindu organization. Unconfirmed reports allegedly suggested that he could have been held at Singha Durba Army Barracks in Kathmandu. It was believed that the alleged arrests of Kedar Gautam and Ram Prasad Gautam could be related to their sister's alleged membership of the Communist Party of Nepal (CPN) (Maoist).

1238. On 2 December 2003, 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 concerning the following case.

1239. **Bhumi Chamling**, a lawyer and resident of Dharan Municipality Ward no. 15, Bajgara, Sunsari district, was reportedly arrested at his home on 11 October 2003 by members of the security forces in plain clothes. He was alleged to be a central committee member of the Janamukti Party Nepal, a small left-wing political party. The reasons for his arrest as well as his whereabouts were reportedly not known. Efforts to locate him by his relatives, including filing a habeas corpus petition in court, and informing the National Human Rights Commission (NHRC), had reportedly so far failed.

1240. **Keshav Singh Thakuri** was reportedly arrested in Bharatpokhari, Dadagaun, Kaski district, on 4 November 2003 by members of the security forces. He was reported to be a worker for the Communist Party of Nepal (CPN) (Maoist) and to have been previously arrested and detained for six months during the state of emergency that ran from November 2001 to August 2002. It was alleged that his detention could be linked to his work for the CPN (Maoist). Alleged efforts to locate him, including informing the International Committee of the Red Cross (ICRC) and the NHRC, had reportedly so far failed.

1241. **Gyanendra Prasad Bidari**, a resident of Thakre VDC Ward No. 3, Ranibari, Dhading district, was reportedly arrested at his home by members of the security forces in plain clothes on 20 October 2003. He was said to be a member of the Communist Party of Nepal-Unified Marxist Leninist (CPN-UML). The reasons for his arrest as well as his whereabouts were reportedly not known. Efforts to locate him by his relatives, including informing the NHRC, had reportedly so far failed.

1242. **Manoj Kumar Shah** was reportedly arrested in Belathan, Bihar, India, on 7 November 2003 by members of the Indian police, when he was allegedly traveling in India with his wife to visit relatives. According to the information received, the Indian police handed him over to members of the Nepalese security forces and government personnel of Mahottari district, Nepal. On 8 November 2003 he was reportedly handed over to the Chief District Officer (CDO), District Level Chief of National Investigation Department (NID) and an army Major from Mahottari district. Manoj Kumar Shah was reported to be a former member of the CPN (Maoist) who surrendered himself to the Nepalese authorities in 2001. Alleged efforts to locate him by his relatives, including informing the NHRC, and visiting army barracks, had reportedly so far failed.

1243. **Kamal KC**, a resident of Kirtipur Municipality Ward no. 15, Taudaha, Kathmandu district, was reportedly arrested at his home by then army personnel on 13 November 2003. The reasons for his arrest as well as his whereabouts were

reportedly not known. Efforts to locate him by his relatives, including visiting the Headquarters of the Royal Nepalese Army and army barracks, as well as informing the NHRC, the ICRC, and the Defence Ministry and Home Ministry, had reportedly so far failed.

1244. **Shyam Raj Acharya**, a resident of Chautha VDC, Ward No. 1, Nuwakot district, was reportedly arrested by about 100 army personnel at his home on 18 November 2003. The reasons for his arrest as well as his whereabouts were reportedly not known. Efforts to locate him by his relatives, including visiting a local police station, and informing the NHRC as well as the Defence and Home Ministries, had reportedly so far failed.

1245. **Ek Nath Chaulagain**, who was allegedly arrested on 11 September 2003, was reportedly being held at Singha Durbar army barracks in Kathmandu. His family had reportedly been denied access to the barracks and the authorities had allegedly not confirmed that he was detained there. An urgent appeal had already been sent in connection with this case on 1 October 2003 (see above).

1246. **Bhagirath Kharel, Maha Prasad Angai and Naresh Maharjan**, who were allegedly arrested between 6 and 9 November 2003, were reportedly still held at an undisclosed location. Efforts to locate them by their relatives, including contacting the police, army and the NHRC, had reportedly so far failed. Concern was expressed for the health of Bhagirath Kharel, who allegedly had a heart condition and who could be in need of medical attention. An urgent appeal had already been sent in connection with this case on 13 November 2003.

1247. On 4 December 2003, the Special Rapporteur sent an urgent appeal concerning **Manoj Rai**, a student who was reportedly arrested without a warrant at his home on Gairidhara on 27 September 2003 by 10 policemen and taken to the interrogation section at Hanuman Dhoka DPO where he was allegedly beaten with a bamboo stick on his thighs and on the soles of his feet (*falanga*), punched in the head, slapped on the hear, beaten with plastic pipes and denied food for two days and repeatedly subjected to other forms of ill-treatment. Lawyers reportedly last visited him on 26 November 2003. Since then he had allegedly been moved to a different place of detention and his whereabouts were unknown. He had reportedly not been presented before a judicial authority. In late November 2003, a habeas corpus petition was reportedly filed on his behalf.

1248. On 8 December 2003, 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 concerning **Tej Narayan Sapkota**, who was reportedly arrested by four security forces personnel in plain clothes on 24 November 2003 in Bagbazar, Kathmandu. He was allegedly involved in the work of the Sarbottam Printing Press in Bagbazar, and a member of the *Nepal Patrakar Mahasangh* (Nepal Journalist Federation). Although there were no charges against Tej Narayan Sapkota, it was believed that he was detained under suspicion of being involved with the Communist Party of Nepal (CPN) (Maoist). Efforts to locate Tej Narayan Sapkota by visiting the local police station and contacting the National Human Rights Commission (NHRC) had reportedly so far failed.

1249. On 9 December 2003, the Special Rapporteur sent an urgent appeal concerning the following individual cases.

1250. **Keshav Chaulagain** was reportedly summoned to Singha Durbar Army headquarters on 31 August 2003 and taken away by army personnel. The reason for his arrest was reportedly not known. His relatives reportedly tried to visit him at Singha Durbar Army headquarters but were reportedly denied access and confirmation that he was detained there. Efforts to locate him by his family, including through the Home Ministry, Defence Ministry, the army, and the National Human Rights Commission (NHRC), had reportedly so far failed.

1251. **Umesh Subedi**, a student, was reportedly arrested at home in Balkhu on 4 September 2003 by army personnel. His whereabouts and the reasons for his arrest were reportedly unknown since then. Unconfirmed reports allegedly suggest that he was held at Chhauni Army barracks, but the army had reportedly denied this. Efforts to locate him, including informing the NHRC and International Committee of the Red Cross (ICRC), had reportedly so far failed.

1252. **Pushkar Subedi** was reportedly arrested at home in Nayabazaar on 5 September 2003 by army personnel. His whereabouts and the reasons for his arrest were reportedly unknown since then. Unconfirmed reports allegedly suggest that he was held at Chhauni Army barracks, but the army had reportedly denied this. Efforts to locate him, including informing the NHRC and International Committee of the Red Cross (ICRC), had reportedly so far failed.

1253. **Tej Prasad Gautam**, aged 19, was reportedly arrested at home in Teuda on 25 November 2003 by members of the security forces in plain clothes, and taken away. Efforts to locate him, including informing the Defence Ministry, Home Ministry and NHRC, had reportedly so far failed, and his whereabouts remained unknown.

1254. **Dev Bahadur Maharjan** was reportedly arrested at home in Kirtipur on 26 November 2003 by members of the security forces in plain clothes. He was reportedly asked by the security forces personnel to show them where his sisters live, one of whom is alleged to be involved with the CPN (Maoist). Efforts to locate him, including informing the Defence Ministry, Home Ministry, NHRC, and visiting the local police station, had reportedly so far failed.

1255. **Shankar Nepali, Deependra Karki**, aged 20, and **Shyam Nepali**, aged 21, were all reportedly arrested on 28 November 2003 whilst walking along the road in Sitapalila by members of the security forces in plain clothes, and taken away in a car. The reasons for their arrests were not known. Efforts to locate the three men, including informing the NHRC, had reportedly so far failed.

1256. **Hom Prasad Gautam**, a security guard, was reportedly arrested by security personnel on 1 December 2003 when he was working at a business at the Kirtipur Old Bus Park, and taken away. The reason for his arrest was reportedly not known. Efforts to locate him, including visiting Chhauni barracks, informing the Army Human Rights Cell, NHRC, and ICRC, had reportedly so far failed.

1257. On 9 December 2003, 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 concerning **Kumar Prasad Pant**, who was reportedly arrested at work in Kalanki on 19 November 2003 by four members of the security forces in plain clothes, and taken away. Kumar Prasad Pant was reportedly previously a district committee member of the All Nepal Free Student Union (ANFSU) (Revolutionary) which is reportedly viewed of having links with the Communist Party of Nepal (CPN) (Maoist). Efforts to locate him, including informing the Defence Ministry, Home Ministry, the National Human Rights Commission (NHRC), and visiting army barracks and police stations, had reportedly so far failed.

1258. On 11 December 2003, 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 Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Indra Bahadur Arya**, who was reportedly arrested at his home on 11 November 2003 by members of the security forces in plain clothes. He was reportedly a VDC member representing the Communist Party of Nepal (Unified Marxist-Leninist) (CPN-UML). The reason for his arrest was not known. Efforts to locate him by his family, including visiting local army barracks, the District Administration Office, and informing the National Human Rights Commission, Defence Ministry and Home Ministry, had reportedly so far failed.

1259. On 11 December 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur on the Working Group on Arbitrary Detention concerning **Ghanashyam Adhikari**, and **Mukunda Prasad Pant**, who were reportedly arrested in Dhading district on 21 September and 11 November 2003, respectively, and whose whereabouts were allegedly unknown. Efforts to locate them, including informing the National Human Rights Commission (NHRC) and the International Committee of the Red Cross (ICRC), and visiting local army barracks and the District Administration Office, had reportedly so far failed.

Follow-up to previously transmitted communications

1260. By letter dated 6 June 2003, the Government provided information on the individual cases below, which had been transmitted by the Special Rapporteur in 2002.

1261. Concerning **Padam Prasad Baidik** and **Sita Baidik** (E/CN.4/2003/68/Add.1, para. 1022), the Government reported that they had not been arrested on 16 January 2003 in Tulsipur.

1262. Concerning **Bidur Khadka** (ibid., para. 1023), the Government reported that he had been detained since 20 February 2002 and that he had failed to pay the required bail.

1263. Concerning **Bijaya Raj Acharya** (ibid., para. 1024), the Government reported that he had been released on 18 March 2002.

1264. Concerning **Ram Nath Mainali** (ibid., para. 1028), the Government reported that he had been released on 5 July 2002.

1265. Concerning **Om Sharma** (ibid., para. 1031), the Government reported that he had been released on 3 February 2003.

1266. Concerning **Govinda Acharya** (ibid., para. 1031), the Government reported that he had been released on 17 December 2002.

1267. Concerning **Khil Bahadur Bhandari** (ibid., para. 1031), the Government reported that he had been released on 4 March 2003.

1268. Concerning **Deepak Sapkota** and **Manarishi Dhital** (ibid., para. 1031), the Government reported that they had been released on 5 November 2002.

1269. Concerning **Ishwor Chandra Gyawli** (ibid., para. 1031), the Government reported that he had been released on 1 November 2003.

1270. Concerning **Tikajung Shahi** (ibid., para. 1032), the Government reported that he had been released on 12 January 2003.

1271. Concerning **Som Bahadur Ghale Tamang** (ibid., para. 1034), the Government reported that he had been released on 6 August 2002.

1272. Concerning **Hari Prasad Phuyal** (ibid., para. 1040), the Government reported that he had been released on 21 August 2002.

Observations

1273. The Special Rapporteur would like to draw attention to a press release issued by him on 12 November 2003 jointly 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. Profound concern was expressed over reports that dozens of individuals were being detained secretly in Nepal and were therefore at risk of suffering torture and other forms of ill-treatment.

1274. The Special Rapporteur wishes to reiterate that the invitation issued by the Government to him to visit the country remains on his agenda, and has his priority attention.

Niger

1275. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 1997, au sujet desquels il n'avait pas reçu de réponse.

Observations

1276. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Rights of the Child (CRC/C/15/Add.179, para. 70) about the non-separation of children and adults in jails, the very poor conditions of detention, mainly due to overcrowding in detention and prison facilities, and the frequent recourse to and excessive length of pre-trial detention.

Nigeria

1277. By letter dated 24 September 2003, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information concerning **over 3000 Isekiri, Ijaw and Urhobo women**, including women carrying babies and elderly women, who protested at the gates of Shell Petroleum Development Company and Chevron Nigeria Ltd. in Warri, Delta State, on 8 August 2002. It is reported that a group of policemen and soldiers started to whip, kick and beat the protesters with the butts of their guns, without any provocation or warning. The security forces reportedly launched the attack throwing tear gas, shooting in the air and beating up the women. **Titi Omafor**, a 70-year-old woman, was reportedly kicked in the legs by a soldier, as a result of which she was unable to move her lower limbs. She was reportedly left on the ground by policemen and soldiers and two other women carried her to a clinic.

Elisabeth Ebido, a 45-year-old woman and an Itsekiri community leader, was reportedly beaten repeatedly with the butt of a gun by four members of the security forces. As a result she allegedly sustained deep cuts on her arms and legs.

Eda Ederougun, an 89-year-old woman, was reportedly beaten with a *kokobo* (a whip made of twisted animal skin). **Alice Ukoko**, a 42-year-old woman, was reportedly knocked to the ground and whipped by two armed men. She allegedly sustained scars on her neck and back.

1278. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 and 2002 for which no responses had been received.

Urgent appeals

1279. On 30 January 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning **Festus Keyamo**, a lawyer and the leader of Movement for the Actualization of the Future Republic of the Niger Delta. He was reportedly arrested by the police on 28 December 2002, held at various locations and transferred to the Nigerian Federal Police Headquarters in the capital, Abuja. Festus Keyamo is said to be held in incommunicado detention without charge at an unknown location and denied adequate food, clothes and medical assistance. It is believed that in protest against his detention and the conditions in which he was being held, he started a hunger strike. In view of the incommunicado nature of his detention in an unknown location, fears were expressed that he may be at risk of torture and other forms of ill-treatment. Concern for his health was also expressed in view of his hunger strike.

Pakistan

1280. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002, 2001 and 1999 for which no response had been received.

Urgent appeals

1281. On 28 January 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the sale of children, child prostitution and child

pornography concerning **M. A.**, a 14-year-old boy reported to have been the object of an acid attack by a religious teacher from the local madarssah from Orangi town on 1 July 2002. The act was allegedly provoked by the boy's refusal to engage in sexual relations with the teacher. The minor was reportedly taken by his father to Abbasi Shaheed Hospital, where doctors informed him that more than 50 per cent of his face was burnt and that he had also lost his eyes. According to the information received, a First Information Report was registered in Momin Abad Police Station and police arrested the teacher and some of his friends. The case was reportedly under trial in the court of Additional District and Session Judge, West 1. However, it was alleged that the minor's family was receiving threats of dire consequences if they did not withdraw the case. The police had reportedly been asked to take appropriate action for the protection of M.A. and his family, to no avail.

1282. On 25 March 2003, the Special Rapporteur sent an urgent appeal concerning **Akhtar Baloch**, a journalist and human rights activist who was working in the Hyderabad Task Force office of the Human Rights Commission of Pakistan (HRCP). The Special Representative on human rights defenders had already sent an urgent appeal in relation to this case on 24 March 2003. Akhtar Baloch was reportedly abducted on 23 March 2003 in Hyderabad. His driver was allegedly threatened with death by the abductors. Members of the HRCP had allegedly expressed their concern that they were targeted by military agencies because of their activities for the promotion and protection of human rights. It was reported that when officers of the HRCP contacted the police in connection with this alleged abduction, the latter disclaimed any responsibility for the act or any knowledge of his whereabouts, and suggested that he could be in custody of the military intelligence agencies. Other sources were thought to have provided the HRCP with similar information regarding his possible whereabouts.

1283. On 21 July 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning **Abdulwahab Tohti** and **Muhammed Tohti Metrozi**, two ethnic Uighur Chinese nationals who had gone missing on 16 July 2003 in Rawalpindi. Muhammed Tohti Metrozi reportedly went missing after he left his home to meet an official from the Pakistani Intelligence Bureau. He had been reportedly recognized as a refugee by the UNHCR in December 2002 and was awaiting resettlement to Sweden, where he was due to travel at the beginning of August 2003. Their current whereabouts were unknown, but they were believed to have been detained by the Pakistani authorities and fears were expressed that they could be at risk of forcible return to China where they would be at risk of torture and possible execution.

1284. On 25 September 2003, 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 right of everyone to the highest attainable standard of physical and mental health concerning **Rehmat Shah Afridi**, a newspaper editor who was allegedly being held in a cell on death row for 24 hours a day at Kot Lakhpat Prison, Lahore. He was allegedly being denied access to proper medical treatment for a heart condition which had recently worsened. He was also said to have lost a lot of weight and to been denied a mattress, despite having back problems. According to the information received, after his relatives requested the intervention of the Home Secretary of Punjab on his behalf, the latter wrote to the

prison doctor, who confirmed that Rehmat Shah Afridi should be moved to the Punjab Institute of Cardiology. However, it is reported that he was still in prison. Relatives were allegedly told by officials from the Home Ministry that the prison doctor was not reliable and that another doctor would conduct a complementary examination. He had not been visited by the second doctor yet. It was alleged that Rehmat Shah Afridi was sentenced to death in June 2001 on drug trafficking charges following the publication in his newspaper of reports of corruption of government ministers, alleged links between the Anti-Narcotics Force (ANF) and military intelligence, and the ANF and drug smugglers. The prosecution allegedly did not produce compelling evidence to prove the charges against Rehmat Shah Afridi. An appeal against the death sentence reportedly remained outstanding, as well as a long-term request for him to be transferred to a prison near his home in the North West Frontier Province.

1285. By letter dated 25 October 2003, the Government responded that the appeal was still pending in the Lahore High Court. The Government did not provide information regarding the health condition of Rehmat Shah Afridi.

1286. On 17 October 2003, 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, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders concerning **Rasheed Azum**, a journalist who was reported to be the Secretary-General of the Youth Development Organization and the President of the Jhalawan Union of Journalists. He was reportedly arrested on 15 August 2003 in Khuzdar by local police, allegedly without any reason being given to him for his arrest. It was alleged that the reason suggested by the police for Rasheed Azum's arrest was that he had distributed, in Khuzdar, a poster depicting images of alleged human rights violations by army soldiers. The poster was allegedly described as "seditious". According to the information received, Rasheed Azum was reportedly taken before a local magistrate on three occasions, on 16, 22 and 28 August 2003. The magistrate allegedly failed to ask Rasheed Azum whether the police had used torture against him. On 28 August 2003, when the investigative remand period had expired, the local magistrate reportedly remanded Rasheed Azum to judicial custody awaiting trial in Khuzdar Central Prison. He was allegedly taken to Khuzdar police station by unknown persons, blindfolded and taken to an unknown destination where he was allegedly tortured for several hours before being returned to the police station, and then taken back to the Central Prison.

Follow-up to previously transmitted communications

1287. By letter dated 10 June 2003, the Government responded to an urgent appeal sent on 15 October 2001 concerning **Aziz Zemouri, Muhammad Iqbal, Syed Karim and Rifatullah Orakzai**, journalists (E/CN.4/2002/76/Add.1, para. 1158). The Government reported that they had been released after their credentials were established. The Government also reported that their detention was predicated on the concern for the personal safety of the journalists who had ventured into areas where there was serious risk for their safety.

1288. By letter dated 11 June 2003, the Government responded to an urgent appeal sent on 21 June 2002 concerning **Akram Awan** (E/CN.4/2002/76/Add.1, para. 1157).

The Government reported that he had been admitted to the prison hospital on 23 May 2001 because of a chest infection and bronchial spasms and that immediate medical attention had been provided to him. A month later, he was reportedly put on anti-tuberculosis therapy. He was discharged from the prison hospital on 14 July 2001 when his physical condition improved. Regular follow-up had been carried out since then. Finally, the Government reported that concerns expressed in the Special Rapporteur's communication had been fully taken care of and that he had been provided with medical care.

1289. By letter dated 4 August 2003, the Government responded to an urgent appeal sent on 8 November 2002 concerning **Amir Aziz** (E/CN.4/2003/68/Add.1, para. 1065). The Government responded that he had been released on 19 November 2003.

1290. By the same letter dated 4 August 2003, the Government responded to a joint urgent appeal sent with the Special Rapporteur on extrajudicial, summary or arbitrary executions on 27 June 2001 concerning **Rubina Khan** (f) (E/CN.4/2002/74/Add.2, para. 460). The Government reported that she had availed herself of all the legal remedies available and that her mercy petition had been rejected by the President on 17 May 2001. The Government further reported that there was no evidence of torture nor was that claim made by Rubina Khan.

Observations

1291. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Rights of the Child (CRC/C/15/Add.217, paras. 40, 80) about section 89 of the Penal Code which allows for corporal punishment to be used as a disciplinary measure in schools and at the fact that corporal punishment is widely practised, especially within educational and other institutions and within the family, many times resulting in serious injuries. Moreover, it expressed concern at the high number of children in prisons who are detained in poor conditions, often together with adult offenders and thus vulnerable to abuse and ill-treatment.

Paraguay

1292. Por carta con fecha 8 de octubre de 2003, el Relator Especial recordó al Gobierno varios casos transmitidos en 1996 y 2001 respecto a los cuales no había recibido respuesta.

Seguimiento de comunicaciones transmitidas previamente

1293. Por carta con fecha 27 de noviembre de 2003, el Gobierno facilitó información sobre casos transmitidos por el Relator Especial en 1996 y 2001 y recordados en su carta del 8 de octubre de 2003.

1294. En relación con **Rosalino Ortíz** (E/CN.4/2003/76/Add.1, párr. 1160), el Gobierno informó que se instruyó sumario en averiguación al supuesto hecho de maltrato (lesión corporal) contra el mismo en la Tercera División de Caballería. El Juzgado de Primera Instancia Militar del Segundo Turno sobreseyó la causa por no existir delincuente que castigar ni delito que investigar. Según diligencias y

documentaciones agregadas a la causa, no existían indicios que incriminaran a personal militar ni se constataron señales de lesiones físicas o corporales.

1295. En relación con **Brígido Martínez, Pedro Edgar Aquino y Bernardino Acuña** (ibíd., párr. 1161), el Gobierno informó que se instruyó sumario en averiguación del supuesto hecho de lesión corporal y abuso de autoridad. El sumario fue abierto por Auto Interlocutorio n.º 2 del Juzgado de Instrucción Militar del Primer Turno y el mismo seguía abierto hasta la fecha.

1296. En relación con **Sydney Moraes** (ibíd., párr. 1162), el Gobierno informó que no se registraba en el archivo de la Dirección del Servicio de Reclutamiento y Movilización ninguna persona con este nombre. El Tribunal Militar tampoco tenía abierto ningún sumario en su nombre. Se informó sin embargo de una persona de nombre Sydney Alves Soares, muerta en comisaría con paro cardiorespiratorio, posiblemente por negligencia de control médico adecuado en la Comisaría n.º 7 de Hermandarias, Sante Fe.

1297. En relación con **César Francisco Pereira, Carlos Alberto Insrán, Tranquilino Gómez, Oscar Insrán y Antonio Centurión** (ibíd., párr. 1163), el Gobierno informó que según la Suprema Corte de Justicia Militar no se registraba denuncia ni instrucción de sumario alguno ante los tribunales militares sobre estos jóvenes. En relación con el fallecimiento de Antonio Centurión, se sobreseyó la causa en razón de que el hecho tratado no constituía delito por haber ocurrido en forma casual no imputable a terceros.

1298. En relación con **Reinaldo Morínigo** (ibíd., párr. 1164), el Gobierno informó que el Juzgado de Instrucción Militar del Tercer Turno instruyó sumario por supuesto hecho de abuso de autoridad y lesión corporal. El 2 de febrero de 2001 se sobreseyó libre y totalmente la causa a razón de que en las diligencias y documentaciones no se constató ningún indicio que incrimine al personal militar ni señales de lesiones físicas o corporales.

1299. En relación con **Lorenzo Maldonado** (ibíd., párr. 1165), el Gobierno informó que según la Suprema Corte de Justicia Militar, no se registró denuncia ni instrucción de sumario ante los tribunales militares. La denuncia y los antecedentes se presentaron en su oportunidad ante el Senado.

1300. En relación con **Jorge Herebia, Rafael Pereira, Oscar Acuña, Jimmy Orlando Dos Santos y Diego Acosta** (ibíd., párr. 1166), el Gobierno informó que existía una causa por “lesión corporal en el ejercicio de la función pública” ante la Fiscalía en la cual figuraban estas personas como víctimas.

1301. En relación con **César Barrios, Venancio Vera y Pablo Osorio** (E/CN.4/1997/7, párr. 155), el Gobierno informó que la Constitución nacional prevé el derecho a la objeción de conciencia y que el Congreso de la nación decidió archivar definitivamente el tratamiento de la ley que regulaba la objeción de conciencia por considerar que no se podría regular ni condicionar tal derecho.

1302. Mediante esta misma carta, el Gobierno proporcionó detallada información sobre los mecanismos de prevención y seguimiento de denuncias en sede interna, el Informe de Actividades de la Dirección general de derechos humanos del Ministerio

de Justicia y Trabajo, un informe de la Defensoría del Pueblo, un informe de actividades de la Comisión de Derechos Humanos de la Honorable Cámara de Senadores y un informe del Poder Judicial. Asimismo, el Gobierno extendió una invitación al Relator Especial para que oportunamente visite Paraguay para observar *in situ* cuestiones relacionadas con su mandato, a fin de emitir recomendaciones y cooperar con el Estado en materia de promoción y prevención.

Observaciones

1303. El Relator Especial agradece la invitación transmitida por el Gobierno por su invitación para visitar Paraguay e incluye dicha invitación en su agenda.

Peru

1304. Por carta con fecha 17 de septiembre de 2003, el Relator Especial notificó al Gobierno que había recibido información sobre los casos individuales siguientes.

1305. **Roy Paul Maldonado Valenzuela** y un amigo suyo habrían recibido una paliza a manos de unos policías vestidos de civil en Huamanga, departamento de Ayacucho, el 13 de mayo del 2000, cuando los dos jóvenes, supuestamente ebrios, habrían intentado robar unas botellas de cerveza. Un automóvil patrulla se los habría llevado a la comisaría de Huamanga. En el vehículo, habrían sido nuevamente golpeados y obligados a limpiar la sangre del suelo. Roy Paul Maldonado Valenzuela habría presentado una denuncia de tortura contra cuatro policías. Los policías implicados no habrían respondido a ninguna de las reiteradas citaciones judiciales para comparecer a testificar ante el juez.

1306. **Juan Carlos Aliaga Mera**, miembro de la Fuerza Aérea, habría fallecido en circunstancias sospechosas el 27 de noviembre de 2000, mientras estaba de servicio en Lima. Se alega que habría muerto tras disparar accidentalmente contra sí mismo. Sin embargo, se habría señalado igualmente que tenía señales de lesiones en la cara, el cuello y los tobillos. Su viuda no habría tenido la posibilidad de ver el cadáver, y unos oficiales de la Fuerza Aérea le habrían dicho que no se pusiera en contacto con los medios de comunicación. En marzo de 2001, su familia habría presentado una denuncia contra dos miembros de la Fuerza Aérea. Se habría iniciado una investigación sobre el caso, pero el fiscal a cargo del caso no habría ordenado que se exhume el cadáver para determinar la causa de la muerte. En abril de 2001, su viuda habría denunciado haber sido intimidada por unos individuos armados no identificados que la habrían esperado delante de su casa y la habrían telefoneado al trabajo. Se le habría negado protección alegando que no había identificado a los individuos que la acosaban.

1307. **Estefa Ccari Mamani** habría sido detenida y golpeada por dos policías el 19 de diciembre del 2000. Según la información recibida, la orden de detención que pesaba contra ella, dictada por un juez de Ilo, departamento de Moquegua, era por unos cargos de robo que ya habían sido desestimados anteriormente por los tribunales. Habría permanecido detenida hasta el 22 de diciembre del 2000. Una denuncia de tortura habría sido presentada en febrero de 2001 y el caso habría sido sometido a investigación judicial.

1308. **Clotilde Vidal Paredes** y su esposo habrían sido interceptados el 17 de noviembre de 2000 por un grupo de policías cubiertos por pasamontañas que, según se señaló, procedían de Chaupi, del pueblo de Chinacpampa, departamento de La Libertad. Los policías habrían golpeado brutalmente a Clotilde Vidal y habrían disparado contra su esposo, que habría fallecido a consecuencia de las heridas. El hijo de la pareja habría denunciado la agresión al teniente gobernador de Chinacpampa, quien habría informado al Gobernador del distrito. Además, se habría presentado una denuncia ante la Defensoría del Pueblo.

1309. **Frankois Mogollón Huamán**, de 18 años de edad, habría sido detenido en una fiesta universitaria en Yanaoca, departamento de Cusco, el 15 de octubre de 2000, después de que estalló una discusión entre él y otras dos personas. Habría sido conducido a una comisaría, donde un capitán de la Policía Nacional lo habría abofeteado y golpeado con una porra en la cabeza, mientras un agente de menor graduación lo habría sujetado por los brazos. Habría sido llevado a una celda, mientras le habrían propinado patadas y puñetazos en la espalda y en la cabeza y le habrían amenazado de muerte. En los archivos de la comisaría no existiría ningún registro inicial de denuncia alguna contra Frankois Mogollón. La policía habría mostrado a la familia una denuncia presentada contra el joven, pero dicha denuncia habría sido realizada después de su detención. El 19 de octubre de 2000, el fiscal a cargo del caso habría presentado cargos de coacción, abuso de autoridad y tortura contra los dos policías, y habría pedido una pena de dos años de prisión por el delito de abuso de autoridad y de cinco años por el delito de tortura. Sin embargo, en agosto de 2001 el juez a cargo del caso habría resuelto que no existían suficientes pruebas contra los policías y habría ordenado que se archivara el caso. Se habría apelado contra esta resolución, y el caso habría sido transferido ante una Corte Superior.

1310. **Ernesto Laureano Vizcardo Márquez**, recluso de la prisión de máxima seguridad de Yanamilla, departamento de Ayacucho, habría sido agredido por unos guardias en noviembre de 2000. Habría sido empujado al suelo y sus ojos rociados con un producto químico. La agresión habría tenido lugar cuando los guardias le vieron en una reunión convocada por los reclusos para emprender posibles acciones en protesta por los malos tratos infligidos por un guardia a un preso el 15 de noviembre de 2000. Además, Ernesto Vizcardo habría sido encerrado durante un mes en una celda de aislamiento. Un informe médico elaborado por el médico de la prisión certificaría lesiones serias en los ojos. El 29 de noviembre de 2000, su familia habría presentado una denuncia por abuso de autoridad en relación con su reclusión arbitraria en régimen de aislamiento. Se habría ampliado más tarde la denuncia para incluir cargos de tortura. Sin embargo, el 9 de enero de 2001, el fiscal encargado del caso habría decidido retirar los cargos y archivar el caso. En enero de 2001, la Defensoría del Pueblo habría enviado al fiscal a cargo del caso una comunicación oficial en la que habría manifestado que existían pruebas suficientes para iniciar una investigación judicial. El caso seguiría cerrado.

1311. **Frank Alfredo Romero Arrieta**, de 18 años de edad, se habría unido a la Fuerza Aérea del Perú el 19 de febrero de 2001 para cumplir el servicio militar. Varios días después habría comunicado a su familia que oficiales de graduación superior de la base militar de Las Palmas, departamento de Lima, donde cumplía el servicio, le estaban sometiendo a malos tratos. También dijo que los oficiales en cuestión le habían quitado algunas de sus pertenencias y estaban limitándole la

comida. Según los informes, parecía asustado y tenía los labios partidos y heridas en las manos. El 1.º de marzo de 2001 habría sido ingresado en el departamento de psiquiatría de un hospital militar de la Fuerza Aérea en Lima. Los médicos habrían declarado que sus problemas de salud eran psicossomáticos, y que sus síntomas habían sido causados por su miedo a estar en la base militar. En el informe no se habrían mencionado los hematomas que el joven tendría en el cuerpo. El 4 de marzo de 2001, cuando sus familiares fueron a visitarlo, los empleados del hospital les habrían informado que habían recibido de oficiales de alta graduación instrucciones de negarles el acceso. Un representante de la Defensoría del Pueblo y sus abogados tampoco habrían tenido el permiso para visitarlo. Ese mismo día, los abogados habrían presentado un recurso de hábeas corpus en su nombre. Al día siguiente, el recluta habría declarado ante un magistrado que había sido torturado por oficiales de rango superior. Los abogados del joven habrían presentado en su nombre una denuncia contra cinco oficiales ante el fiscal de la nación. Sin embargo, el fiscal a cargo del caso se habría negado a presentar cargos por el delito de tortura y habría acusado a cuatro oficiales de delitos contra la vida, el cuerpo y la salud del recluta; otro oficial habría sido acusado de abuso de autoridad. Se habría dictado contra los cinco una orden de comparecencia ante el tribunal. Se habría apelado contra la decisión del tribunal, y el caso habría sido remitido ante la Corte Suprema de Justicia. Se habrían expresado temores por la seguridad de los testigos del caso presente que aún seguirían cumpliendo el servicio militar en la base de Las Palmas.

1312. **Omar Sihuar Chihuantito**, quien habría empezado a trabajar en la Escuela Superior de Comandos del Ejército bajo la supervisión de un capitán en 1999, habría sido gravemente golpeado el 17 de febrero de 2000 por dicho capitán, al parecer porque no habría podido terminar su trabajo. Posteriormente habría sido golpeado por un oficial superior y habría perdido el conocimiento. Habría sido ingresado en un hospital, donde se le habría diagnosticado una lesión cerebral, supuestamente causada por los golpes. Habría estado en coma durante diez días, y en la unidad de cuidados intensivos otros 30 días más. Consecuentemente habría tenido problemas de visión y hemiplejía. Habría presentado una denuncia de tortura contra el capitán que lo habría golpeado. Un tribunal militar habría abierto una investigación, por delitos cometidos en el transcurso del deber, contra los dos oficiales del Ejército y contra otros dos que, al parecer, también habrían estado implicados en la paliza. Aún no se habría tomado ninguna decisión sobre si el caso debe ser juzgado ante un tribunal civil o militar.

1313. Por carta con fecha 17 de septiembre de 2003, el Relator Especial, juntamente con la Relatora Especial sobre la violencia contra la mujer, notificó al Gobierno que había recibido información según la cual **Elisa Rivera Toribio**, reclusa de la prisión de Santa Lucía, en el departamento de Pasco, habría sido sometida a abusos sexuales por un guardia de la prisión en numerosas ocasiones desde su internamiento. La última de esas agresiones habría tenido lugar en febrero de 2001, cuando el guardia habría intentado violarla. Habría presentado una denuncia de abuso de autoridad contra tres funcionarios de la prisión. La organización de derechos humanos que la representa habría tratado de ampliar la denuncia para incluir el delito de tortura. Desde que la reclusa denunció estos incidentes, habría sido objeto de represalias por parte de los guardias de la prisión. Se habría abierto una investigación judicial en relación con este caso.

1314. Por carta de fecha 8 de octubre de 2003, el Relator Especial recordó al Gobierno varios casos transmitidos en 1998, 1999 y 2001 respecto de los cuales no había recibido respuesta.

Philippines

1315. By letter dated 16 September 2003, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1316. **Romulo Durong, Russel Lagbawan, Longlong Martin, Rustom Fernando, Adem Dalilan, Racim Anting, Arwin Anting, Jalih Anting, Edgar Camanggo, Jacklo Palatic, Dondon Palactic, Longlong Palactic, Rolan Pinos, Polan Quitab, Amin Paseo, Toto Onofre, Ricric Taron, Expedito Masali, Dodong Eliso, Norman Dalilan, Elmar Kiram, Rolly Maglinte, Nonoy Gomandan, Reynante Kiram, Bobet Atason, Musimar Alisan, Mustafar Maglinte and Rodel Mapando** were reportedly arrested between 14 and 19 July 2000 by officers of the Philippine National Police (Davao Oriental) and soldiers of the 72nd and 60th Infantry Battalion of the Armed Forces of the Philippines (AFP) in Tarragona, Mati, Davao Oriental, Mindanao, on suspicion of being active members of the Moro Islamic Liberation Front (MILF). The detainees were reportedly later transported to Mati provincial jail, where at least 20 of them were blindfolded and handcuffed and taken back to an AFP Special Forces camp at Mati, where most of them were allegedly beaten, punched, hit with rifle butts and kicked. Russel Lagbawan's face was reportedly covered with cellophane and wrapped in a thick towel, both ears were reportedly punched and bullets were reportedly inserted between his fingers. The above-named persons were reportedly held in incommunicado detention and their families were not informed about their whereabouts for at least five days, after which they were reportedly returned to Mati provincial jail. A request for an investigation was reportedly lodged with the regional office of the Philippine Commission on Human Rights (PCHR) and a criminal complaint filed on their behalf by a human rights organization in November 2000. Twenty-nine of the detainees were reportedly eventually tried on charges of robbery and murder before the Regional Trial Court. However, in June 2002, they were reportedly released after the judge declared a "provisional" dismissal of their cases. This decision was reportedly based on a declaration by the Provincial Prosecutor that there was insufficient evidence to proceed. Toto Onofre and Rodel Mapando reportedly claimed that they had been forced them to sign a prepared affidavit and that they had not been advised of their right to counsel.

1317. **Robert Brodett** was reportedly arrested without any warrant by police officers of the National Bureau of Investigation (NBI) in Dagupan City, on 11 February 2001, after he had allegedly gone to them to report the disappearance of his common-law wife. Upon arrest he was reportedly blindfolded, taken to several undisclosed locations, denied access to a lawyer, punched, kicked, slapped and hit in the chest with the barrel of a rifle by several NBI officers, who allegedly forced him to confess to killing his wife. On one occasion a plastic bag was reportedly pulled over his head, almost suffocating him, while someone allegedly held a gun to his head and pulled the trigger. His requests for medical attention, particularly for suspected broken ribs, were allegedly refused. He was reportedly sentenced to death for murder

in May 2002. In August 2002, after being transferred to death row at the New Bilibid Prisons, Muntinlupa, he was reportedly admitted to the prison infirmary.

1318. **Abdulmoner Saliddin** and his father **Munap Saliddin** reportedly went to a military camp at Isabela City on 13 July 2001 after Abdulmoner Saliddin was requested to go there for questioning, in the context of an operation against suspected members or supporters of Abu Sayyaf. On arrival at the camp, they were reportedly arrested on suspicion of involvement in kidnapping. They were allegedly blindfolded and hog-tied and transferred to the military headquarters of the 103rd Brigade in Barangay Tabiawan, where they were allegedly kept until 16 July 2001. Abdulmoner Saliddin was reportedly punched, burned with cigarettes on the shoulder, arm and legs, his nails were reportedly pressed into his ear and temple, and pliers were reportedly used to squeeze his lips and tongue. On 16 July 2001, they were reportedly transferred along with 26 other detainees to Zamboanga City and allegedly underwent inquest proceedings at the Hall of Justice, following which they were formally charged with the offences of kidnapping and serious illegal detention.

1319. **Abdulgani Abbas** was taken to a military camp along with other detainees on 13 July 2001, accused of being a member of Abu Sayyaf and threatened with death. He and other detainees were reportedly subsequently transferred to Tabiawan military camp, where they were allegedly made to sign a document stating that they had not been mistreated, then blindfolded and handcuffed. As Abdulgani Abbas strongly denied that he was an active member of Abu Sayyaf, he was reportedly struck with a hard object and a nail was reportedly pressed into his temple, causing it to bleed. He was reportedly transferred to Zamboanga on 16 July 2001, charged after inquiry and committed to bail.

1320. **Sahid Asaha, Abdulgaffar Hadji Yusof, Sadat Hussin, Marvin Fernandez Ramiso, Marvin Hashim Uyag and Bobby Alonto Abdulajid**, all residents of Tabuk, were reportedly arrested without a warrant on 13 July 2001 and made to sign a document stating that they were not mistreated. Subsequently, they were allegedly transferred to Tabiawan camp, where Sahid Asaha was reportedly kicked, punched and whipped on the abdomen; Abdulgaffar Hadji Yusof, punched and burned; Sadat Hussin, punched, kicked and punctured with metal wires while being tied by the neck and legs; Marvin Fernandez Ramiso and Marvin Hashim Uyag, punched, pistol-whipped on the left eye and his nipples twisted with pliers; and Bobby Alonto Abdulajid repeatedly beaten.

1321. **Adel Ariola Oringa**, a resident of Tabuk, was reportedly dragged out of his office on 16 July 2001 and taken to Tabiawan military camp. Chili pepper was reportedly rubbed into his eyes, a bottle inserted into his anus and he was allegedly hung upside down for a prolonged period. He was reportedly charged with the murder of a military officer and detained at Basilan Provincial Jail.

1322. **Abubakar T. Ashalin** was reportedly arrested on 16 July 2001 after his jeep was stopped as he returned home from Lamitan. He was allegedly held by soldiers of the 18th Infantry Battalion. He was allegedly beaten, chili pepper was allegedly rubbed into the eyes and penis and a bottle was inserted into his anus. He was reportedly taken on the following day to Tabiawan military camp and beaten again.

On 20 July 2001, a warrant of arrest was reportedly issued against him, charging him with the murder of a military officer.

1323. **Sirad Antonio** and **Ibnohasir Agasi** were reportedly arrested on 15 July 2001 in Fuente, Maluso, and taken to Tabiawan military camp in Isabela, where they were allegedly blindfolded and hog-tied. They were reportedly ordered to strip, punched, kicked and coerced to sign documents without being aware of their contents. Sirad Antonio was allegedly burned on his nipples with cigarette butts. According to the information received, both men, still blindfolded and hog-tied, were transported by helicopter to Zamboanga City on 16 July 2001 and after a short inquest proceeding were charged with kidnapping and sent to jail.

1324. **Mukim Hataman Limborg** and **Yacob Ayub** were reportedly approached by soldiers in Tumhaubong, Basilan, in late June 2001, and later blindfolded, handcuffed and taken to another military camp. Yacob Ayub was reportedly hit in the head with a rifle butt, tied with a rope around the neck, whipped with a piece of wood and burned with a heated barrel of a rifle and lit pieces of wood. Mukim Hataman Limborg was reportedly hog-tied and whipped until he allegedly lost consciousness. When he regained consciousness, he allegedly found scald wounds on his trunk and thighs and cigarette burns on his cheek and hand. Both were reportedly detained in Zamboanga, charged with kidnapping and serious illegal detention.

1325. **T. U.**, aged 16, **J. B.**, aged 15, **Ting Idar**, aged 20, **Esmael Mamalankas** and **To Akmad** were reportedly arrested on 8 April 2003 in Cotabato City, Mindanao, in connection with the Davao International Airport and Sasa wharf bombings. The arresting officers, who were believed to be members of the police and/or military, reportedly presented no warrant or explanation for the arrest, and hit the detainees if they attempted to resist. The detainees were reportedly brought to Awang airport in Cotabato City. T. U. was reportedly hit several times on the chest with an Armalite rifle and his head was allegedly wrapped in cellophane. Ting Idar was reportedly strangled with a rope, kicked and subjected to electric shocks. A metal object was reportedly placed on his lap and he was allegedly threatened that it would explode if he moved from the seat. To Akmad, who was believed to suffer from tuberculosis, reportedly had his head wrapped in cellophane. J. B. was reportedly strangled with a belt and told that a metal object that had been placed in his lap would explode if he left his seat. Esmael Mamalankas was reportedly beaten as well. On 9 April 2003, the five of them were reportedly blindfolded and taken to the Criminal Investigation and Detection Group at their Camp Domingo Leonor headquarters in Davao City. On 14 April 2003, they were reportedly charged with multiple murder and multiple attempted murder in connection with the bombing.

1326. **Nestor Lumbab**, a 19-year-old farmer from the area of Tuburan and a member of the peasant group *Nakamatikod*, was reportedly arrested on 26 August 2002 and detained for almost two months at the headquarters of the 78th Infantry Battalion of the Philippine Army at Damolog, Cebu. He was reportedly bound, blindfolded, subjected to restrictions on using the toilet, and subjected to electric shocks. He was allegedly forced to sign an affidavit stating that he had voluntarily sought protection at the camp and that he had been treated well during his stay there. Representatives of support groups were allegedly not permitted to visit him at the army camp, and were reportedly threatened by the chief commander of the Battalion.

Nestor Lumbab was reportedly released on 23 October 2002 upon an order issued by a judge of the Regional Trial Court, Branch 25, following a habeas corpus petition filed on his behalf by his brother.

1327. **A number of men** were reportedly beaten by the police on 19 February 2003 when members of the Central Police District of the Philippine National Police raided the Alta Theater, a cinema frequented by homosexual persons, in Cubao, Quezon City. The patrons were reportedly subjected to physical and verbal abuse and extortion attempts and the police allegedly hit several men with their hands and hard objects, with one man reportedly being hit with a gun. In this context, 63 men were reportedly apprehended for verification and five were arrested. All of them were allegedly brought to nearby Camp Karingal. According to the information received, they were filmed when they were brought out of the cinema with no opportunity to hide their faces from the cameras; television programmes showed the scenes. Some of the men were allegedly forced into interviews by the television crews.

1328. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002, 2001, 2000 and 1998 for which no response had been received.

Observations

1329. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Human Rights Committee (CCPR/CO/79/PHL, para. 12) about reports of persistent and widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials and the lack of legislation specifically prohibiting torture, in accordance with articles 7 and 10 of the Covenant. Noting that evidence is inadmissible if it is obtained by improper means, the Committee was concerned that the victim bears the burden of proof.

Qatar

Urgent appeal

1330. On 23 May 2003, the Special Rapporteur sent an urgent appeal concerning **Zelimkhan Yandarbiev**, a former President of the Chechen Republic, who was believed to be at risk of being returned from Qatar to the Russian Federation, where fears had been expressed that he could be at risk of torture or ill-treatment. According to the information received, he was charged in Russia with his alleged “involvement in preparations of an armed revolt”, “complicity in setting up of illegal paramilitary formations” and “attempts on the lives of law enforcement officials”. The charges were allegedly connected to an armed Chechen incursion into the neighboring republic of Dagestan in August 1999. It was reported that the Russian Federation and Qatar do not have an extradition agreement.

Republic of Korea

1331. By letter dated 3 October 2003, sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on human rights defenders, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1332. **Lee Soo-ho**, the Secretary-General of the Korean Confederation of Trade Unions (KCTU); **Kim Young-je**, the KCTU Director for Reunification Affairs, and **Jang Kwang-su**, the Secretary-General of Korean Federation of Construction Daily Workers Unions, were reportedly injured by the police on 7 December 1999 when riot police allegedly stormed a sit-in organized in the context of a campaign for the abolition of the National Security Law. Lee Soo-ho was reportedly dragged out of the sit-in room and allegedly twisted the left knee in the handling. Kim Young-je was also reportedly dragged out of the sit-in room. He was thrown into a riot police bus head first and beaten on his neck, shoulders, and back. Jang Kwang-su was reportedly severely punched and beaten with sticks.

1333. Over 300 members of the Daewoo Motors Workers' Union of the Pupyong Plant and their lawyer, **Park Hoon**, were reportedly severely beaten by riot police on 10 April 2001. Unionists were reportedly prevented from entering their office, which had been closed down by the Daewoo's management, and peacefully protested against the police obstruction. According to the information received, the unionists responded to the alleged beatings by taking their shirts off and lying down on the street. However, the police reportedly kept slashing and beating them with batons for approximately 30 minutes. Forty-three unionists were reportedly taken to the hospital. Park Hoon was also reportedly severely beaten, and hospitalized owing to fractures to his pelvic bone and numerous other blows. On 7 March 2001, the Daewoo Motors Workers' Union reportedly filed a court injunction regarding the obstruction of its activities and the entry to its original office. The Incheon District Court reportedly ruled in its favour on 6 April 2001, and ordered that the unionists be allowed to their office and to conduct their legitimate activities. The incident was believed to be linked to the dismissal, on 16 February 2001, of around 1,750 workers of the Daewoo Motors, many of whom were reportedly union activists or militants in the Pupyong Plant.

1334. By letter dated 6 October 2003, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1335. **Ha Young-ok** was reportedly arrested on 19 August 1999 and accused of organizing an anti-State revolutionary group, *Minhyukdang*, and communicating with a spy from the Democratic People's Republic of Korea. He was reportedly sentenced to eight years' imprisonment and is due to be released in July 2008. He had allegedly been subjected to violence and drugged during interrogation.

1336. **Phil-ho Jeong** was reportedly handcuffed and straitjacketed from 8 March 2000 until 18 June 2001, in Gwangju and Mokpo prisons. He was reportedly kept in a straitjacket for the first 26 days and only untied one or twice a week in afterwards. He reportedly submitted a petition to the Constitutional Court and the National Human Rights Commission (NHRC).

Observations

1337. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Rights of the Child (CRC/C/15/Add.197, para. 38), which noted that corporal punishment is officially permitted in schools.

Romania

1338. Par une lettre datée du 7 août 2003, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

1339. **Teodor-Cicerone Nârtea** aurait été passé à tabac le 12 octobre 2000 à Bucarest par deux hommes en civil qui l'auraient par la suite menotté et se seraient identifiés comme étant membres de la police. Teodor-Cicerone Nârtea aurait été conduit au poste de police n° 10 de Bucarest. Durant le trajet, il aurait à nouveau reçu des coups et aurait été menacé d'être soumis à des chocs électriques s'il ne confessait pas sa supposée responsabilité dans plusieurs vols de voitures. Neuf heures plus tard, il aurait été transféré à l'hôpital du Ministère de l'intérieur afin de recevoir des soins pour des blessures apparemment causées lors de sa détention. On lui aurait diagnostiqué une côte cassée et une fissure à une autre. Il aurait également eu des blessures et des hématomes au visage. Lorsqu'il aurait sollicité un certificat médical, on lui aurait répondu que les documents de l'hôpital suffisaient.

1340. **Iulian Drăgoi, Dragoş Vilcu et Marius Vileanu**, étudiants de l'Université Ovidius, auraient été attaqués à Tîrgușor, Constanța, le 2 novembre 2000, alors qu'ils étaient en train de placarder des affiches pour la *Convenția Democrată din România* (Convention démocratique de la Roumanie) pendant la préparation des élections parlementaires et présidentielles. Le maire de la ville aurait donné un coup de poing au ventre de l'un d'entre eux. Les étudiants auraient par la suite été interceptés dans le village de Ovidiu par un agent de police qui leur aurait confisqué leur permis de conduire et aurait essayé de les renverser avec une voiture de police. Les étudiants auraient déposé plainte auprès du préfet de police de Constanța.

1341. **Mircea Chifan** aurait été arrêté par la police le 13 décembre 2000 à Vicovul de Jos, Suceava, pour avoir agressé sa femme. Il aurait été transféré au poste de police de Radauși et condamné à 30 jours de détention. Durant la procédure judiciaire, il aurait tenté de s'évader, mais aurait été rattrapé par des agents de police qui auraient fait un usage excessif de la force pour le maîtriser. Le 15 décembre 2000, il aurait été emmené au poste de police de Suceava, où il aurait été retrouvé mort le 26 décembre 2000. Le médecin qui avait réalisé l'autopsie aurait observé qu'il avait trois côtes cassées et des blessures à la tête. Ces blessures auraient été causées, d'après ce médecin, au cours des jours précédents. Le détenu n'aurait reçu aucun soin médical lors de sa détention. De plus, sa famille n'aurait pas été autorisée à lui rendre visite sous prétexte qu'il avait un comportement violent. Le procureur militaire de Băcău aurait ouvert une enquête.

1342. Plusieurs membres de la **famille Acsinie** auraient subi des mauvais traitements infligés par des agents de police, le 19 janvier 2001, à Dorobanți, Iași. Les policiers seraient entrés dans la maison de la famille et auraient pénétré dans la chambre des frères **Dinu, Petru et Mihăița Acsinie**, qui étaient en train de dormir. Ils auraient été tous les trois menottés et Dinu Acsinie aurait été frappé avec un bâton à la poitrine. Dix autres personnes du village auraient été arrêtées au cours de la même opération policière. Les frères Acsinie et **Anton Florin** auraient été longuement interrogés sur des supposés vols de poules. Ils auraient été frappés, en particulier avec un pied de biche sur les doigts, et auraient été forcés à réaliser des exercices physiques tels que des pompes. Vers la fin de la journée, Mihăița Acsinie aurait écrit une confession dictée par un sergent. Les quatre hommes auraient été mis en liberté le jour

même à 8 heures du soir. Six jours plus tard, Ptefan Acsinie, le père des trois frères précédemment arrêtés, aurait été averti que ses fils devaient se rendre au poste de police le jour suivant. Durant la nuit, Mihăiþa Acsinie se serait pendu. Selon les renseignements reçus, il se serait suicidé de peur de devoir subir de nouvelles tortures.

1343. **I. S.** (f), âgée de 15 ans et son amie **T. S.** (f), âgée de 16 ans, auraient été abordées par un homme vraisemblablement sous l'emprise de l'alcool le 5 avril 2001 près de la gare d'Oradea. Cet homme se serait mis à leur parler grossièrement, et en faisant des gestes violents. Les jeunes filles auraient commencé à appeler à l'aide mais l'homme se serait cramponné à I. S. Lorsqu'un témoin de l'incident aurait voulu aider les jeunes filles, l'agresseur aurait sorti une carte de policier et se serait présenté comme étant un major. Il aurait menacé les personnes présentes d'emprisonnement si elles tentaient d'intervenir et aurait emmené I. S. au poste de police de la gare. Dans le poste de police, le major aurait cogné la tête de Ioana Silaghi contre un mur et une table et l'aurait battue. Un autre policier se trouvant dans la même pièce ne serait pas intervenu pour la protéger. Le major lui aurait également confisqué son portable. Plus tard, il aurait déclaré s'être fait voler son propre téléphone portable plus tôt dans la soirée par quatre jeunes gens, dont I. S. Quand les parents des deux adolescentes seraient arrivés au poste de police, le major aurait refusé de les laisser entrer dans le bureau où était enfermée la jeune fille. Un membre de la police régionale serait finalement intervenu et aurait emmené les adolescentes et leurs parents dans les bureaux de la police régionale, où ils auraient fait leurs dépositions. Le lendemain, I. S. aurait été examinée par un médecin qui aurait rédigé un certificat médical constatant des contusions sur les bras, les jambes et divers endroits du corps et un hématome sur le visage, blessures concordant avec les allégations de mauvais traitements. Les familles des deux jeunes filles concernées auraient porté plainte, mais plusieurs témoins auraient été menacés par la police et auraient refusé par la suite de faire des dépositions.

1344. **Paul Surdu**, un détenu à la prison de Rahova, Bucarest, aurait été amené chez un dentiste le 25 avril 2001. Lorsque l'assistante médicale lui aurait dit qu'elle ne disposait pas d'analgésique, le détenu aurait insisté pour être emmené au service des urgences d'un hôpital où il pouvait recevoir l'assistance médicale nécessaire. Dix gardiens seraient alors intervenus, l'auraient menotté et enfermé dans une cellule d'isolement. Quelques heures plus tard, le responsable de la prison et quatre gardiens seraient entrés dans la cellule et l'auraient passé à tabac. Il aurait reçu des coups de poing et des coups de pied à la tête et au ventre. Il aurait reçu des crachats et un bout de drap aurait été enfoncé dans sa bouche pour étouffer ses cris. Le matin suivant, après une visite de l'assistance médicale, il aurait été transféré à un hôpital. Il aurait porté plainte auprès de la direction de la prison et du procureur militaire. Suite à cela, il aurait fait l'objet de harcèlement par les gardiens de la prison. Les autorités pénitentiaires n'auraient pris aucune mesure pour assurer sa sécurité.

1345. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 2001, au sujet desquels il n'avait pas reçu de réponse.

Suite donnée aux plaintes signalées dans des communications précédentes

1346. Par une lettre datée du 9 juillet 2003, le gouvernement a répondu à des cas transmis par le Rapporteur spécial par une lettre datée du 3 septembre 1998, à laquelle

le gouvernement avait également répondu par une lettre datée du 13 octobre 1999 (E/CN.4/1999/61, par. 597 à 614).

1347. Concernant **Gabriel Carabulea** (ibid., par. 599), le gouvernement a informé que, suite à la décision du parquet militaire de Bucarest d'archiver le cas, la famille aurait demandé la réouverture des enquêtes. Furent donc ordonnées l'invalidation de la décision susmentionnée et l'ouverture d'une autre enquête. Celle-ci confirma que le décès était dû à une insuffisance cardiorespiratoire après un tromboembolisme pulmonaire. En conséquence, le 4 mars 1998, le cas fut à nouveau archivé suite à une décision de *nolle prosequi*.

1348. Concernant **Virgiliu Iliș** (ibid., par. 600), le gouvernement a informé que, suite à la réception de lettres en provenance d'une organisation non gouvernementale internationale, ce cas avait été vérifié de nouveau par la Section des poursuites militaires qui, le 4 septembre 1998, arriva à la même conclusion que les enquêtes précédentes et l'ordre de *nolle prosequi* fut maintenu.

1349. Concernant **Ioan Roșca** (ibid., par. 601), le gouvernement a informé que le parquet militaire de Bucarest ordonna l'abandon des poursuites pour conduite abusive contre trois militaires dû au manque d'éléments constitutifs de délit. La Section des poursuites militaires approuva cette décision. Le gouvernement a également informé que l'usage de la force avait été nécessaire pour immobiliser Ioan Roșca au vu de son attitude violente.

1350. Concernant **Marius Popescu** (ibid., par. 602), le gouvernement a informé qu'en ce qui concerne les fait du 21 février 1996 il aurait été sanctionné avec une contravention pour ne pas avoir montré de pièce d'identité et pour conduite offensive. D'après un certificat médical, il présentait une lésion mais il n'était pas possible de déterminer les causes de celles-ci. Suite à une plainte déposée par sa sœur le 18 juillet 1997, le parquet militaire d'Iasi aurait mené une enquête contre un sergent et d'autres agents de police supposément impliqués dans ce cas. Cependant, les faits allégués dans la plainte n'auraient pas pu être prouvés. La Section des poursuites militaires approuva la décision de *nolle prosequi*.

1351. Concernant **Eugen Galeș** (ibid., par. 603), le gouvernement a informé que le parquet militaire de Bucarest archiva ce cas par une décision de *nolle prosequi*, ce qui fut considéré légal et bien fondé par la Section des poursuites militaires.

1352. Concernant **Dănut Iordache** (ibid., par. 604), le gouvernement a informé que le parquet militaire ordonna l'abandon des poursuites pour enquête abusive et arrestation illégale. La Section des poursuites militaires considéra la décision de *nolle prosequi* légale et bien fondée puisqu'il n'existait pas d'élément prouvant les allégations de Dănut Iordache.

1353. Concernant **Daniel Neculai Dediu** (ibid., par. 605), le gouvernement a informé que le parquet militaire de Bucarest avait reconnu coupables deux agents de police pour arrestation illégale et enquête abusive et les avait condamnés, le 23 avril 1998, à un an et six mois respectivement d'emprisonnement. Cependant, ils furent pardonnés en vertu de la loi n° 137/1997.

1354. Concernant **Costică Nazăru** (ibid., par. 606), le gouvernement a informé que, suite à une enquête, le parquet militaire de Bucarest avait décidé de ne pas initier de poursuites contre des agents supposément impliqués en raison du manque d'éléments prouvant une conduite abusive de leur part. D'après le parquet, ils agirent conformément à la loi au moment d'immobiliser Costică Nazăru, qui aurait eu une attitude violente.

1355. Concernant **Pantelimon Zaiț** (ibid., par. 607), le gouvernement a informé que le parquet militaire de Bucarest ordonna l'abandon des poursuites pour enquête abusive contre le lieutenant et le commandant accusés étant donné que les allégations de Pantelimon Zaiț n'avaient pu être prouvées. La Section des poursuites militaires considéra cette décision légale et bien fondée.

1356. Concernant **Adrian Matei** (ibid., par. 608), le gouvernement a informé qu'en vertu des éléments de preuve recueillis le parquet militaire de Bucarest ne retint pas les accusations contre les agents de police enquêtés. Cette décision fut approuvée par la Section des poursuites militaires.

1357. Concernant **Ghiță Ilie, Vasile Viorel et George Năstase Bobâncu** (ibid., par. 610), le gouvernement a informé que, le 18 décembre 1997, la Section des poursuites militaires ordonna l'abandon des poursuites pénales après avoir estimé que l'usage de la force par le personnel pénitentiaire avait été fait en conformité avec la loi.

1358. Concernant **Vasile Holiandru** (ibid., par. 611), le gouvernement a informé que la Section des poursuites militaires considéra légale et bien fondée la décision du parquet militaire de ne pas donner suite aux plaintes.

1359. Concernant **Belmondo Cobzaru** (ibid., par. 612), le gouvernement a informé que, suite aux enquêtes menées sur ce cas, celui-ci se serait terminée par une décision de *nolle prosequi* due au fait que les allégations de Belmondo Cobzaru n'avaient pas pu être confirmées.

1360. Concernant **Dumitru Auraș et Mariana Marcu** (ibid., par. 613), le gouvernement a informé que, suite aux enquêtes menées sur ce cas, celui-ci se serait terminé par une décision de *nolle prosequi*. Les preuves recueillies n'avaient pas démontré la culpabilité des agents de police impliqués. La Section de poursuites militaires considéra cette décision légale et bien fondée.

Observations

1361. Le Rapporteur spécial voudrait attirer l'attention sur certaines préoccupations exprimées par le Comité des droits de l'enfant (CRC/C/15/Add.199, par. 34 et 62), en particulier par le grand nombre d'allégations reçues par le Rapporteur spécial sur la question de la torture selon lesquelles des enfants seraient victimes de mauvais traitements et de torture de la part de responsables de l'application des lois. Il regrette qu'aucune suite n'ait été donnée à la plupart de ces allégations et exprime ses craintes qu'elles n'aient pas fait l'objet d'enquêtes diligentes de la part d'une autorité indépendante. En outre, le Comité déplore l'insuffisance de la coopération avec le Rapporteur spécial à cet égard. Le Comité a également déclaré demeurer préoccupé par le nombre élevé d'enfants en détention

provisoire et le fait que le procureur peut discrétionnairement pendant cinq jours priver un détenu de la possibilité de s'entretenir avec un avocat dans l'intérêt de l'enquête.

Russian Federation

1362. By letter dated 16 September 2003, sent jointly with the Special Rapporteur on extrajudicial, summary and arbitrary executions, the Special Rapporteur advised the Government that he had received information according to which **Saypudi Khuseynovich Bahaev**, a resident of Geldagana, Kurchaloevskiy Region, was reportedly arrested by armed forces of the Kurchaloy's Commandatur at his home on 7 February 2003, and taken to the Commandatur in Kurchaloy. Two days later, he was allegedly thrown out of a military car near Kurchaloy. According to the information received, his arms were broken, his legs had frost bite and he had marks of severe beatings. He reportedly stated that he had been detained at the Federal Security Service (FSB) Office of the Kurchaloevskiy Region where he was allegedly hung from the ceiling by his hands and legs, and beaten with pieces of tubes and other objects. He also alleged that he had been kept in a cold room with a concrete floor without any heating. He reportedly died in a hospital on 12 February 2003 as a result of the treatment allegedly received.

1363. By letter dated 5 December 2003, the Government informed that on 4 November 2003, criminal proceedings were initiated for "deliberate infliction of serious harm, leading to the death of the victim as a result of negligence". The investigation was being monitored by the office of the Procurator-General of the Russian Federation.

1364. By letter dated 17 September 2003, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by letter dated 5 December 2003:

1365. **Azizkhon Davlatov, Samad Ibroimov and Iskandar Ibroimov**, three Tajik construction workers, were reportedly severely beaten on 4 July 2000 when a group of unidentified men allegedly entered their house in Starbeevo village, where they were living with other migrant workers. The group was allegedly in part composed of police officers led by a major from the fourth division of Moscow Region's organized crime squad (RUBOP). According to the information received, the three above-named men were taken to the Khimki Department of Internal Affairs, where their admission was allegedly denied because of their visible injuries. They were therefore reportedly taken to hospital in Khimki town and with the acquiescence of a doctor, taken into custody on grounds of drugs offences. During their detention, they were reportedly subjected to further ill-treatment and an officer allegedly attempted to extort money from them. They were allegedly denied access to a lawyer until 14 July 2000. When they were eventually visited by a lawyer, Samad Ibroimov reportedly complained of loss of sight in his right eye, constant headaches and pain in his left side and sustained visible abrasions on his legs, and Azizkhon Davlatov could hardly move and had marks of cigarette burns. Despite the requests made by the lawyer, they allegedly received no medical attention. They were reportedly released two months later. On 29 September 2000, it was reportedly announced that the case against them had been closed for lack of evidence and that an investigation would be opened on the actions

of the RUBOP officers. A case was later reportedly initiated against RUBOP officers in relation to fabrication of evidence, exceeding authority, theft and extortion. The trial against them was said to have started on 11 March 2001. However, the three above-named Tajik men have allegedly been subjected to harassment, detained and prevented to appear in one of the hearings.

1366. The Government informed that the judicial proceedings against the RUBOP officers were continuing.

1367. **O., A. S. and L. V.**, three minors, were reportedly subjected to torture and other forms of ill-treatment by adult inmates on 29 and 30 July 2002, while in custody in the pre-trial detention centre IZ-52/1, Nizhny Novgorod. According to the information received, this treatment included beatings, whipping with an electric water-boiler flex, forced to stay in painful positions for prolonged periods, hanging and electric shocks. The inmates who assaulted them were allegedly instigated by one of the security guards of the centre. The minors were reportedly brought before a court on charges of committing robbery on 1 August 2002 and A. O. reportedly informed the judge that he had been subjected to the above-described treatment. Claims were also submitted on behalf of the minors by their relatives on 5 August 2002 to the prosecutor of Sormovski district and the chief officer of the pre-trial detention centre. A. O. and A. S. were reportedly examined on 10 August 2002 by a doctor who allegedly observed marks of this treatment. The doctor allegedly subsequently received pressure and threats. A legal representative of A. O., who visited him on 21 August 2002, reportedly noticed bruises on his arms and face. A preliminary inquiry had reportedly been conducted by officers of the pre-trial detention centre, who were thought to have recommended that A. O. ask his parents to withdraw the claim. On 26 August 2002, the deputy of the Sovetski District Prosecutor decided not to open criminal proceedings in connection with this case. The juveniles were reportedly sentenced to eight years of imprisonment on 21 October 2002 by the Sormovski district court of Nizhny Novgorod.

1368. The Government informed that on 26 September 2002, the Nizhny Novgorod oblast procurator's office initiated criminal proceedings for cruel treatment. Preliminary investigations had been entrusted to the investigations department of the Sovetski district internal affairs office in Nizhny Novgorod.

1369. **Togram Airapetian**, aged 18, was reportedly arrested by the police on 10 February 2001 in the yard of his school in northern Moscow and taken to Police Station no. 84, where he was allegedly beaten by three men, forced to crouch down and to extend his arms (on which a heavy door from a safe was placed) and kicked. He allegedly signed under pressure a statement in which he confessed having extorted money from his acquaintance with a threat of violence. A doctor from the local trauma unit reportedly diagnosed that he had a broken jaw and recommended that an ambulance be called. However, he was allegedly taken back to a cell of the police station. According to the information received, on the following day he was released and was taken by his father to hospital where he underwent an operation and remained there for over three weeks. He reportedly filed a complaint in 21 May 2001 and the procurator office of Butyrskii opened a criminal investigation into these allegations. Although, Togram Airapetian gave the names of the alleged perpetrators and the address of the police station, on 23 August 2001 the Butyrskii procurator reportedly

closed the preliminary investigation until the persons accused of the offence would be identified. On 19 September 2001 Togram Airapetian reportedly filed a complaint with the European Court of Human Rights.

1370. The Government informed that criminal proceedings were brought against the chief of operations of the criminal investigation unit of the criminal police of the Otradnoe district internal affairs unit in Moscow and that on 2 July 2003 the case was forwarded to the court, where he was being heard.

1371. **Islam Kaimov**, aged 22, and **Isa Biziev**, aged 20, were reportedly stopped by military forces at the check-point No. 41 in Grozny on 10 February 2003 and taken to an unknown location. According to the information received, a few days earlier the officers at the check-point had requested to buy the car from Islam Kaimov and Isa Biziev. When the men rejected the offer, the officers allegedly stated that they would get the car "somehow anyway". The Procurator's Office was requested to provide information on their whereabouts. An investigator was allegedly sent to the check-point No. 41 but no information was given out. On 13 February 2003, Isa Biziev reportedly managed to escape and to return home and Islam Kaimov was allegedly found one day later in the District Plochad Minutka. He was reportedly severely hurt. A sack had allegedly been put over his head and his throat was reportedly cut. He was reportedly taken to hospital No. 9.

1372. The Government informed that on 23 May 2003, preliminary investigations into the case were halted as it was not possible to identify the perpetrators. The decision was later set aside by the Chechen Republic procurator's office and the evidence provided by the Islam Kaimov (B.S. Kaimov) and Isa Biziev (I.U. Batsiev) was being checked. A decision would be taken on whether to transfer the case to military procurator's office for further decision.

1373. By letter dated 17 September 2003, sent jointly with the special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information according to which **Zamid Ayubov**, a Chechen journalist, was reportedly beaten and kicked by personnel of the second Operational-Investigative Bureau of the Leninski District, belonging to the Interior, in Grozny on 16 February 2003, when he was approaching the Interior Ministry and identified himself as a journalist researching for information on units of the Interior Ministry conducting night patrols in the city. He was allegedly kept in custody without charges and released the following day.

1374. By letter dated 5 December 2003, the Government informed that the relevant authorities had no information concerning the alleged detention and beating of Zamid Ayubov. The Government further informed that the procurator's office in Leninsky district in the city of Grozny carried out checks in relation to this report but that the report was not substantiated. Consequently it was decided on 3 November 2003 not to initiate criminal proceedings as no offence had taken place.

1375. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001 for which no response had been received.

Urgent appeals

1376. On 14 January 2003, the Special Rapporteur sent an urgent appeal concerning **Khudayberdy Orazov**, former Deputy Prime Minister and director of the Central Bank of Turkmenistan, **Nurmukhammet Khanamov**, former Turkmen Ambassador to Turkey, and **Orazmukhammet Yklymov**, the three of them alleged exiled Government critics. The Turkmen authorities were reportedly blaming them for the attempt on the life of President Saparmurad Niyazov on 25 November 2002 and seeking their forcible return. On 29 December 2002, the Turkmen Supreme Court reportedly sentenced Khudayberdy Orazov and Nurmukhammet Khanamov to 25 years' imprisonment for their supposed involvement. The men were not present at the trial. The following day, the sentences were reportedly increased to life imprisonment by the People's Council, Turkmenistan's supreme legislative and a televised speech held at the People's Council, President Saparmurad Niyazov stated that Khudayberdy Orazov and Nurmukhammet Khanamov were on Russian territory and that he had a telephone conversation with the Russian president and that "God willing, we will detain them". Orazmukhammet Yklymov was reportedly accused by the Turkmen authorities of having traded weapons and ammunition. He is the father of Esenaman and Ayli Yklymov, whose cases were included in an urgent appeal dated 10 December 2002 (E/CN.4/2003/68/Add.1, para. 1858). On 3 January 2003, the Russian news agency ITAR-TASS reported that the Security Council of the Russian Federation and the State Security Council of Turkmenistan agreed that the Russian Federation would assist Turkmenistan in searching for and deporting "criminals" to Turkmenistan. Fears had been expressed that the above-named persons could be at risk of torture and other forms of ill-treatment upon return.

1377. By letter dated 13 March 2003, the Government responded that the whereabouts of Khudayberdy Orazov and Nurmukhammet Khanamov had not been established and that in any case they could only be handed over to the Turkmen authorities if guarantees would be received that they would not be tortured or subjected to other forms of ill-treatment. Concerning the case of Orazmukhammet Yklymov, the Government informed that no demand for extradition had been received.

1378. On 4 June 2003, the Special Rapporteur sent an urgent appeal concerning **Musa Khozhaevich Zaurbekov**, who was reportedly abducted by unidentified armed men believed to belong to the Federal forces from his home in Kataiama, in the Staropromyslovskii region of Grozny, on 6 May 2003. They allegedly tied Musa Zaurbekov's wife and children up, covered their mouths with scotch tape and locked them up in a separate room. Musa Zaurbekov was then reportedly taken away without his family being told where he was going or why. Musa Zaurbekov's relatives had reportedly been searching for him and had made enquiries with the local administration and the military command post in the Staropromyslovskii region. Their requests for information, however, had reportedly all been ignored or gone unanswered.

1379. By letter dated 5 August 2003, the Government informed that the procurator's office in the Staropromyslovsky district of Grozny initiated a criminal case on 16 May 2003. The law enforcement bodies of the North Caucasus region were pursuing a number of investigative measures.

1380. On 8 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to health concerning **Rafael Marsovich Fakhrutdinov**, who was reportedly arrested on 9 October 2003, charged with attempted abduction on 16 October 2003 and detained in Pretrial Detention Centre IZ 47/4. He was reportedly hospitalized on 31 October 2003 in the IK-12 (MOB, hospital of the Chief Department for Execution of Punishments of the Ministry of Justice), and diagnosed with myocardium cardio-sclerosis. On 17 November 2003, he reportedly underwent surgery because of a lymphatic inflammation in his groin. He was reportedly discharged from the hospital on 20 November 2003 by order of the Pre-trial Detention Centre's administration and returned to the Centre, despite the hospital's recommendation that he needed continued inpatient treatment. The head of the hospital reportedly requested that he be transferred to a hospital specializing in cardiology, otherwise his condition could lead to disability or death. The Pre-trial Centre's administration reportedly refused to provide any further medical assistance to him and to transfer him to the Centre's medical unit. According to his lawyer, the administration forced the detainee to sign a statement that he did not require any medical assistance. On 4 December 2003, a local court reportedly extended the term of his stay in pretrial detention until 26 March 2004.

Follow-up to previously transmitted communications

1381. By letter dated 17 December 2002, the Government responded to a communication sent on 2 September 2002 (E/CN.4/2003/68/Add.1, paras 1171 and seq.) and provided information on the following individual cases.

1382. Concerning **Nadezhda Ubushaeva** (ibid., para. 1172), the Government informed that criminal proceedings were initiated by the Office of the Procurator of the Republic of Kalmykia on 21 August 2001 in connection with this case. However, as it was not possible to identify the persons who interfered with the demonstration and took her away, the pre-trial investigation was suspended on 14 February 2002. The case was later examined by the Office of the Procurator of the Republic of Kalmykia and the decision in the matter was found to be lawful and justified. It was therefore not possible that unlawful actions had been committed by militia officers.

1383. Concerning **Adam Mourtazov** and **Magaram Khabiboulin** (ibid., para. 1174), the Government informed that the case-file opened by the Grozny District Procurator's Office did not contain information about their holding. The Government indicated that allegations of beatings were a conjecture. The pre-trial investigation of this case was suspended on 5 May 2002 but later resumed.

1384. Concerning **Magomed Astamirov** (ibid., para. 1175), the Government informed that the authorities had no information regarding his health and the facts allegedly occurred in August 2001. No criminal proceedings had been instituted in this case. The Urus-Martan District Procurator's Office was checking the information received.

1385. Concerning the facts occurred in **Chernoreche village** in June 2001 (ibid., para. 1176), the Government informed that none of the local residents had lodged a complaint on this matter. The Grozny City Procurator's Office had been instructed to look into the facts.

1386. Concerning **Musa Dakhaev, Movsar Khamaev, Sultanbek Shakhidov, Lechi Musaev and Sultan Beriev** (ibid., para. 1177), the Government informed that the relevant authorities had no information on this case. The Shali District Procurator's Office had been instructed to check these allegations.

1387. Concerning **Mansur** (ibid., para. 1178), the Government informed that the authorities had no information about these injuries. The Grozny City Procurator's Office had been instructed to look into the facts.

1388. Concerning **Bislan Abusoltovich Abubakarov and Abdul-Mutalib Abdurakhmanovich Jabrailov** (ibid., para. 1179), the Government informed that they were fatally injured when an armed confrontation took place between troops of the federal forces conducting a passport check and unidentified members of illegal armed formations interspersed among the civilian population, during which firearms were used by both sides. The Grozny City Procurator's Office opened a criminal case on 2 May 2001. The pre-trial investigation of this criminal case was suspended on 2 July 2001 because it was not possible to identify the alleged perpetrators.

1389. Concerning **Turpal Khaladov and Salambek Umalatov** (ibid., para. 1180), the Government informed that no complaints from their relatives had been received by the relevant authorities in Grozny or Vedeno districts. These two persons did not appear in the list of missing persons held by the Procurator's Office of the Chechen Republic and the Grozny City Procurator's Office had no record of any supervisory proceedings or correspondence related to this case. The Government further informed that no citizens with these names were registered in the Chechen Republic.

1390. Concerning **Zelimkhan Murdalov** (ibid., para. 1181), the Government informed that the Grozny City Procurator's Office opened a criminal case on 7 January 2001 and that a former militia officer and task-force member of the criminal investigation department at the Oktyabrsky District was arrested on 29 January 2002. However the pre-trial investigation was suspended on 28 February 2002 in view of the temporary serious illness of the accused.

1391. Concerning **Alaudin Sadykov** (ibid., para. 1182), the Government informed that he had been released after it was decided to discontinue criminal proceedings against him on 24 May 2000. Upon his statement that unlawful methods had been used against him, the Grozny City Procurator's Office opened a criminal case. It was established that while he was being held in a police cell at Oktyabrsky District Temporary Internal Affairs Office, unidentified personnel repeatedly beat him and on 11 March 2000 cut off his ear. On 18 October 2002, the pre-trial investigation was suspended on the grounds that no persons against whom charges could be brought had been identified.

1392. Concerning **Zaindi Bisultabov** (ibid., para. 1183), the Government informed that the relevant authorities had no information about this alleged detention and treatment. No complaint had been received by the Grozny City Procurator's Office. The Government further informed that nobody with this name had been registered in the Chechen Republic since 1 January 2000.

1393. By letter dated 17 December 2002, the Government responded to a communication sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions on 2 September 2002 (E/CN.4/2003/68/Add.1, paras 1184 and seq.) and provided information on the following individual cases.

1394. Concerning the facts in **Tsotsin-Yurt village** in October 2001 (ibid., para. 1185), the Government informed that from 30 December 2001 to 3 January 2002 special measures were conducted in this village against members of illegal armed groups and to uncover weapons caches. On 30 December 2001, a group of armed persons traveling through the village in an unregistered vehicle was detected and pursued. During a firefight with the group, two soldiers were killed and 10 people sustained wounds. The bodies of seven people, including Misa Ismailov and Adirs Zarkiev, were found in a house along with weapons. Regarding the disappearance of Sheikh-Akhmed Magomadov, Khamzat Israilov, Akhmed Baisultanov, Khanpash Baisultanov and Suleyman Baisultanov, statements were lodged with the Argun Inter-district Procurator's Office, which opened criminal cases and later referred them to the Kurchaloi District Procurator's Office. Concerning Khamzat Israilov, it there was no evidence that he had been detained. as it was not possible to identify the persons who allegedly abducted him, the criminal proceedings were suspended on 7 April 2002. However, the pre-trial investigations resumed on 27 July 2002 and were continuing. Concerning Sheikh-Akhmed Magomadov, the proceedings had been suspended twice as it was not possible to identify the suspected. However, the case was later sent to the district procurator in Kurchaloi to prepare a preliminary investigation. Concerning Akhmed Baisultanov, Khanpash Baisultanov and Suleyman Baisultanov, the criminal proceedings were suspended on 1 June 2002 because it was not possible to identify the perpetrators. Police inquiries to establish their whereabouts were still ongoing. Concerning the detention of residents of Tsotsin-Yurt village, no information had come to light regarding alleged cruel treatment. The Government informed that Malika Ustrakhanova denied that she had been beaten during her detention. Concerning Salamu Mazaev, nobody had reported his alleged abduction to the procurator office and no criminal cases had been opened. Concerning Ayub Artsoev, Said-Magomed Artsoev, Aset Artsoeva, Magomed Mutaev, Akhmed Mutaev, Birlant Dzhonalieva amd Tseda Artsoeva, the Government informed that no complaints had been received and that consequently no criminal proceedings had been initiated. Concerning the alleged murder of Buisavar Usmanov and Alkhazur Saidselimov, the Kurchaloi District Procurator's Office had been instructed to conduct an inquiry.

1395. Concerning **Bislan Khasaev** (ibid., para. 1186), the Government informed that information exists on three individuals named Bislan Khasaev. For each of them, criminal cases related to abductions were opened, investigated and suspended because it was not possible to identify anyone against whom charges could be brought.

1396. Concerning **Said-Emin Bilalovich Gushaev, Khizir Said-Eminovich Gushaev** and **Kilsan Idrisovna Gushaeva** (ibid., para. 1187), the Government informed that the Office of the Procurator of the Chechen Republic had no information about the alleged unlawful actions committed by federal officers against these individuals. Their whereabouts were being sought.

1397. Concerning **Yashurkaev Abdul-Vakhab Sulimovich** (ibid., para. 1188), the Government informed that his body was found on 23 February 2002 in a grave containing four corpses. On 2 March 2002, Argun Inter-district Procurator's Office opened a criminal case. The pre-trial investigation was suspended on 2 May 2002 because it was impossible to identify a person against whom charges could be laid.

1398. Concerning **Umatgeri Edilbekov** and **Magomed Malsagov** (ibid., para. 1189), the Government informed that nobody had reported their abduction to the law enforcement bodies of the Chechen Republic and that consequently, no criminal case had been opened regarding their alleged abduction. In connection with the discovery of the bodies, the Procurator's Office of the Chechen Republic opened a criminal case on 24 February 2001. The pre-trial investigation was suspended on 1 March 2002 because it was impossible to identify a person against whom charges could be laid.

1399. Concerning **Kazbek Vakhaev** (ibid., para. 1190), the Government informed that the Office of the Procurator of Urus-Martan District opened a criminal case on 18 October 2000. An investigation established that he had been released on 13 August 2000 but that he did not return home. His whereabouts were still unknown. The pre-trial investigation was suspended on 12 April 2002 because it was not possible to identify a person against whom charges could be laid.

1400. By letter dated 13 March 2003, the Government responded to an urgent appeal sent on 10 December 2002 concerning **Mannopzhon Rakhmutullayev** (E/CN.4/2003/68/Add.1, para. 1197), the Government informed that the Office of the Russian Procurator-General was still considering the request to extradite him. The Uzbek authorities had been asked to be specific about the charges, to provide evidence and offer additional guarantees that he would not be subjected to torture or other forms of ill-treatment, if extradited. Given the complex nature of this case, a final decision on the matter was being deferred.

Observations

1401. The Special Rapporteur notes with concern that the Government has not extended to him an invitation to visit the Russian Federation, with regard to the situation in the Republic of Chechnya. He would like to recall that a request for a joint mission with the Special Rapporteur on violence against women, its causes and consequences, was initially made in April 2000, and reiterated in his letter dated 16 October 2003.

1402. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Human Rights Committee (CCPR/CO/79/RUS, para. 12, 13) about the reported occurrence of torture or ill-treatment, especially during informal interrogations in police stations when the presence of a lawyer is not required. It remained deeply concerned about continuing substantiated reports of human rights violations in the Chechen Republic, including extrajudicial killings, disappearances and torture, including rape.

Rwanda

1403. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 2001, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

1404. Le 22 avril 2004, le Rapporteur spécial a envoyé un appel urgent concernant le major **Félicien Ngirabatware**, proche du brigadier général Emmanuel Habyarimana, ancien Ministre de la défense qui aurait fuit le Rwanda après avoir été supposément impliqué dans un rapport d'un comité parlementaire qui aurait identifié les personnes responsables d'avoir fomenté des désaccords au sein du Mouvement démocratique républicain. Le major Félicien Ngirabatware serait détenu au secret au centre de détention militaire de Kami (Kigali) depuis le 1^{er} avril 2003. Les requêtes formulées par sa famille quant à sa détention n'auraient, jusqu'à ce jour, pas reçu de réponse. Deux autres personnes proches du brigadier général, **Damien Musayidizi** et le docteur **Leonard Hitimana**, seraient portées disparues depuis les 3 et le 7 avril 2003 respectivement.

1405. Le 5 juin 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Président-Rapporteur du Groupe de travail sur la détention arbitraire, concernant **Augustin Butorano**, aussi connu sous le nom de **Nkuba**, Vice-Président d'Itara, un parti politique constitué de jeunes gens. Il aurait été arrêté par la police le 26 mai 2003, en compagnie d'autres membres de son parti. Tous auraient été accusés d'«atteinte au bon déroulement des élections» lors du référendum du 26 mai 2003. Ils n'auraient pas été formellement inculpés et auraient été détenus au poste de police de Muhima à Kigali. Des craintes avaient été exprimées quant au fait qu'Augustin Butorano ne soit forcé à livrer les noms des autres membres de son parti. Des organisations de défense des droits de l'homme auraient été empêchées de le voir en détention.

1406. Par une lettre datée du 20 juin 2003, le gouvernement a répondu qu'Augustin Butorano avait été arrêté pour enfreinte à la loi électorale et a assuré que ses droits, notamment au procès équitable, étaient respectés.

1407. Le 9 septembre 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Vice-Présidente-Rapporteuse du Groupe de travail sur la détention arbitraire, concernant **Léonard Kavutse**, ancien membre du Parlement sous l'étiquette du Mouvement démocratique républicain interdit en avril 2003, **Grégoire Mbayingana**, **Agnès Nyirantezirizaza**, **Gatete**, **Modeste Sindikubwabo**, **Bahizire**, **Jean Ahishakiye** et **Grégoire Mutessa**, qui auraient été arrêtés en raison de leur soutien à Faustin Twagiramungu, candidat opposant au Président Paul Kagame lors de l'élection présidentielle du 25 août 2003. Gatete serait détenu au secret sans avoir été inculpé depuis le 22 août 2003. D'autres personnes détenues, certaines d'entre elles au secret, auraient été remises en liberté par la suite.

Saudi Arabia

1408. On 29 September 2003, the Special Rapporteur advised the Government that he had received information according to which **Muhammad Rajkhan** was reportedly arrested without official charges outside the grocery store he owned near his home city of Jeddah by members of *al-Mahbahith al-'Ammah* (General Investigations) on 8 February 2003. He was reportedly taken to the capital Riyadh where he was allegedly held in incommunicado detention at al-Mabahith al-'Ammah prison. He was reportedly transferred to al-Ruwais prison in Jeddah, where he was allegedly tortured while being held in incommunicado detention. As a result, he allegedly suffered from a burst eardrum and substantial weight loss. Muhammad Rajkhan had reportedly not been formally charged with a recognizably criminal offence and had reportedly not appeared before a judge. He had reportedly been denied access to a lawyer. Between 1 February and 15 March 2003, two of his brothers were reportedly detained because they possess pilot's licences. They were allegedly also held incommunicado until they were released without trial.

1409. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of two cases transmitted in 2002 for which no response had been received.

Urgent appeals

1410. On 25 September 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Muhammad Rajkhan** (see above). According to new information received, when his relatives attempted to visit him on 23 September 2003 at al-Ruwais prison, they were told that they did not know where Muhammad Rajkhan was. The prison authorities reportedly claimed that they did not have information on his whereabouts. Although the exact reasons for his arrest were not known, fears had been expressed that he may have been detained solely for the peaceful expression of his religious or political beliefs.

1411. On 27 October 2003, 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 Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Um Sa'ud**, a 60-year-old woman, and at least **82 other detainees** who were reportedly arrested during a protest in the al-U'laya district of Riyadh on 14 October 2003. The protestors were reportedly calling for political reform and the release of prisoners allegedly detained on political grounds. According to the information received, Um Sa'ud was carrying a picture of her son, Sa'ud al-Mutayri, who allegedly died in al-Ha'ir prison during a fire on 15 September 2003. Um Sa'ud reportedly called for her son's body to be returned to his family. She was allegedly beaten by security forces at the time of her arrest. On the same day, 271 people were allegedly arrested, 188 of whom were later released. Further protests reportedly took place on 23 October 2003 in various cities, including Jeddah, Dammam and Ha'il. Some allegedly non-violent protestors were reportedly injured and arrested. Um Sa'ud was being held in al-Malaz prison, Riyadh, where fears had been expressed that she may be at risk of torture or other forms of ill-treatment. According to the information received, while her daughters had been allowed to visit

her, most of the 82 other detainees are being held in incommunicado detention. They were reportedly being interrogated and were expected to be referred for trial.

1412. By letter dated 17 November 2003, the Government responded that the allegations related to the death of Sa'ud al-Mutayri were being investigated. The Government further reported that the gathering of 14 October 2003 had not been authorized by the competent authorities and that some of the persons arrested had been released and other referred to the courts.

1413. On 14 November 2003, 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 Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Ahmad bin Sa'd bin Abdel Aziz Al-Amhuj** and **Jam'an Al-Ghamdi**, who were reportedly held in incommunicado detention at *al-Mabahith al-'Ammah* (General Investigations) prison in the capital Riyadh. They were allegedly arrested on 14 October 2003 during a demonstration in the al-U'laya district of Riyadh by members of *al-Mahbahithal-'Ammah* on charges of demonstrating and "carrying video cameras". Ahmad bin Sa'd bin Abdel Aziz al-Amhuj allegedly suffers from diabetes.

1414. On 19 November 2003, the Special Rapporteur sent an urgent appeal concerning **Faisal Naji al-Balaw**, who was reportedly handed over by Jordan to Saudi Arabia in connection with a hijacking on 14 October 2000. He allegedly hijacked the plane along with another man, Aish Ali al-Faradi, whose current whereabouts were not known to the Special Rapporteur. The two alleged hijackers reportedly said that they had seized the plane in order to flee Saudi Arabia and draw the human rights situation in Saudi Arabia to the attention of the international community. Faisal Naji al-Balaw was reportedly being held incommunicado at an unknown place. The Minister of the Interior reportedly confirmed during a press conference on 16 November 2003 that he was being questioned in police custody.

1415. By letter dated 15 December 2003, the Government responded that Faisal Naji al-Balaw's handover had taken place in a procedurally correct manner. He was in good health and he was being well treated, as, according to the Government, he had confirmed personally to his relatives, with whom he was in contact.

1416. On 9 December 2003, 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 Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning more information received regarding people reportedly detained in relation to their participation in the march of 14 October 2003 in the al-U'laya district of Riyadh (see above). Approximately 80 people, including three women, were reportedly still in detention, most of them at the Al-Malaz prison, allegedly without charge and access to a lawyer. Some were allegedly in solitary confinement at Al-Malaz prison, allegedly without charge and access to a lawyer. Some are said to be still in solitary confinement at Olisha Mabahith headquarters, including Dr. **Saleh Al-Ghamdi** and **Mubarek Al-Dosari**. Some of the detainees had reportedly been dismissed from their employment in public administration as a reprisal against their participation in the march, such as **Ahmed Al-Amhooj** and **Jamman Ali Jamman Al-Ghamdi**. Approximately 40 prisoners in the Al-Malaz

prison reportedly went on hunger strike on 5 December 2003 to protest their imprisonment and the Government's refusal to give them access to lawyers. It was reported that the people still detained include: **Saleh Al-AbdulRazaq, Waleed Ahmed Al-Ghamdi, Hakim Matar Al-Otaibi, Awad Ali Al-Qarni, Abdullah Mohamed Naser Al-Hilal, Naser Zamil Ashomari, Ahmed Kharsan Azzahrani, Mahdi Abdullah Tash Kendi, Emad AbdulAziz Al-Saif, Esam Abdullah Al-Qadi, Saifalduen Alghaleb Ashareef, Emad Awad Al-Luhayani, Hassan DhayefAllah Al-Harbi, Abdallah Mudhey Al-Otaibi, Ghanam Bataal Al-Mutairi, Abdallah Saleh Al-Ghamdi, Mansour Naser Al-Mayouef, Mazen Abdallah Al-Hassani, Suliman Abdallah Al-Raqi, Mohamed Hazaa Al-Fadhly, Ibrahim Saelh Attwajiri, Saelh Mohamed Athonian, Hamed Abdallah Al-Salehi, Majed Ahmed Shaheen, Ali Mohamed Al-Ghothami, Jamman Ali Jamman Al-Ghamdi, Ahmed Saad AbdulAziz Al-Amhooj, Mohamed Suliman Saad Shatha, Fayez Al-Anzi, Waleed Al-Shodookhi, Salman Al-Radhi, Ghanam Al-Mutairi, Mansour Al-Mabough, AbdulRahman Al-Zunadi and Mubarek Al-Dosari.**

1417. On 12 December 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Faris Muhawish al-Tawbi**, a 30-year-old Iraqi national held in incommunicado detention at Rafha General Prison. He had reportedly been beaten and hit with sticks by prison guards.

Follow-up to previously transmitted communications

1418. By letter dated 14 October 2003, the Government responded to a communication initially sent on 2 September 2002 (E/CN.4/2003/68/Add.1, paras. 1244 et seq.) and transmitted again on 8 October 2003 (see above).

1419. Concerning **Muhammad al-Dawsari, Said al-Subayi and Muhammad al-Hadithi** (ibid., para. 1245), the Government reported that it had proved impossible to identify the persons in question as the allegation itself did not provide sufficient information.

1420. Concerning **Abdel Moti Abdel Rahman** (ibid., para. 1246), the Government reported that this case had been considered under the 1503 procedure by the Working Group on Communications, which decided to discontinue consideration of the allegations based on the responses provided by the Government. The Government stated that given the desire to avoid duplication and to respect the principle of confidentiality of the 1503 procedure, it could see no reason for the reiteration of this allegation.

1421. By letter dated 29 October 2003, the Government responded to an urgent appeal sent jointly with the Special Representative on human rights defenders concerning **Sa'd bin Sa'id Zua'ir** (E/CN.4/2003/68/Add.1, para. 1251) and reported that he had been arrested at King Khalid International Airport while attempting to travel to Qatar with three Kuwaiti passports. The reasons for his arrest were of a criminal nature and he was questioned in connection therewith. The Government also reported that his father, **Sa'id bin Zua'ir**, had been released.

Senegal

1422. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un cas qu'il avait envoyé en 2002, au sujet duquel il n'avait pas reçu de réponse.

Serbia and Montenegro

1423. By letter dated 16 July 2003, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1424. **Stevan Dimić**, a Rom who was reportedly arrested on 23 July 1998 on suspicion of raping a 15-year-old girl and who was allegedly subjected to torture and other forms of ill-treatment in order to force a confession, was reportedly awarded damages of 240,000 dinars from the Serbian authorities. This decision was reportedly taken in November 2002 by the Novi Sad Municipal Court. According to the Court's findings, while in detention he was made to lie on the floor while a police officer sat on a chair placed on his back and beat him with a truncheon and metal bar while another officer kept him pinned to the floor by placing his boot over his head. He was reportedly kicked in the genitals and racially abused. He was reportedly acquitted of the charge of rape on 8 April 2000 by the Novi Sad Municipal Court and this decision was upheld by the District Court in December 2000. The Special Rapporteur welcomed information regarding the monetary compensation granted to Stevan Dimić, but was informed that no disciplinary or criminal proceedings had been taken against the officers allegedly involved.

1425. **Nenad Tasić** was reportedly arrested on the night of 17/18 August 2002, taken to the police station in Vranje, where he was allegedly severely beaten with truncheons. He reportedly lost consciousness allegedly after being hit repeatedly on the head and attempts to revive him with cold water in the police station failed. He was reportedly taken unconscious to Vranje hospital, where he was diagnosed as being in a deep coma with serious complications, and rushed to the neuro-surgical department at Nis hospital for an emergency brain operation. He reportedly remained in a deep coma until 2 September 2002. According to the information received, on 20 August 2002 the district prosecutor in Vranje opened a criminal investigation against two police officers.

1426. By letter dated 21 October 2003, the Government reported that on 18 August 2002 disciplinary charges were pressed against a crime-scene examiner and an officer for a serious breach of work obligation and abuse of duty. They were removed from the force pending completion of the proceedings. On 20 August 2002, they were arrested and brought before the investigating judge of the District Court of Vranje and later charged with forcing a confession. The proceedings were under way. Proceedings related to compensation were also under way.

1427. **M.S.**, aged 13, and **S.S.**, aged 11, two Roma children whose family had come to Montenegro fleeing the war in Kosovo in 1999, were reportedly taken to the Niksic police station by Montenegrin police on 8 November 2002. They were reportedly both beaten all over their bodies and on the sole of their feet. M.S. was allegedly thrown to the floor and had his head stamped on. They were also allegedly forced to jump up and down on one leg. The two boys were reportedly released the

same day, and police officers reportedly warned their mother not to complain about what had allegedly happened or the family would be sent back to Kosovo.

1428. By letters dated 26 September and 28 October 2003, the Government reported that the two children were taken to the police station with their father's authorization. The Government also indicated that one of the minors was slapped by the father when the latter went to the police station. The Government stated that there was no indication of excessive use of force, threats or ill-treatment and that during a medical examination no injuries were found. However, since the presence of the parents was not properly assured at all stages of the procedure, disciplinary measures were taken against two inspectors.

1429. By letter dated 29 July 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which Government responded by letters dated 17 October and 15 December 2003.

1430. **Nikola Maljkovic, Dragan Ilic and Dragan Malesevic Tapi** were reportedly arrested in October 2002 on suspicion of having participated in the murder of a police general in June 2002 and the planning of other attacks on government and police officials. Nikola Maljkovic was reportedly arrested by the Belgrade police and security agents on 27 October 2002. On 30 October 2002, his lawyer stated that he was in a prison hospital, with a broken hand, several broken ribs and bruises all over his body. Dragan Ilic was reportedly beaten on 29 October 2002 by unknown perpetrators after the investigation judge of the Belgrade Fifth Municipal Court ordered his release and before the police re-arrested him in a Belgrade hospital. According to the information received, the police were not satisfied with the investigating judge's decision to release him and it was believed that the police could have been involved in the attack on Dragan Ilic after his release. Dragan Malesevic Tapi was reportedly also arrested on 29 October 2002. According to the information received, he died in a police station on the same day. The police allegedly said that he suffered a stroke. The preliminary results of the official autopsy allegedly suggest that Dragan Malesevic died because of a sudden deterioration of a long-term heart and blood-vessel disease.

1431. The Government reported that, on 6 November 2002, the District Public Prosecutor's Office of Belgrade received the results of the post-mortem examination performed by the Institute of Forensic Medicine. According to the preliminary conclusions, the victim died of natural causes as death occurred as a direct consequence of a sudden deterioration of the already existing serious and long-lasting atherosclerosis of the heart and blood vessels. It was established that no injuries were caused to hard and soft tissues by hard objects. Yet the results of the chemical analysis and the patho-histological examination would be necessary for any final conclusions. The Government further reported that neither Nikola Maljkovic nor Dragan Ilic and their legal representatives pressed charges for maltreatment at the hands of the officers of the Ministry of Internal Affairs. The Government indicated that, upon examination of the case, it was established that no proper procedure had been followed in the use of coercion to arrest Nikola Maljkovic. The Government also indicated that the Internal Affairs Division of the Belgrade Police Department had been requested to provide information as to the possible illegal use of coercion against

Nikola Maljkovic in the pre-trial procedure. Finally, the Government reported that criminal proceedings were continuing against Nikola Maljkovic and Dragan Ilic and that they were being held at the District Prison of Belgrade.

1432. **Milan Jezdovic**, aged 24, **Milica Babin**(f), aged 18, **Radoje Tomovic**, aged 25, **Aleksandar Draskovic**, aged 19, and **five other individuals** were reportedly arrested on 5 December 2002 on suspicion of dealing drugs. Upon arrest, they were all reportedly handcuffed, made to lie on the floor, and allegedly beaten. Milica Babin was allegedly kicked. All nine were subsequently reportedly taken to the main Belgrade police station and individually interrogated. Plastic bags were allegedly placed over their heads with self-adhesive strips stuck around their necks, and self-adhesive strips were allegedly stuck around their legs to prevent them from struggling. Some of them were allegedly beaten, kicked and subjected to electric shocks. Six of the detainees, including Milica Babin, were reportedly released on 5 December due to lack of evidence. Radoje Tomovic and Aleksandar Draskovic were reportedly released the following night. Milan Jezdovic allegedly died on 5 December 2002 at the police station. His family was allegedly allowed to remove his body on 6 December 2002 and reported that a full autopsy report would not be available for four to six weeks. A doctor hired by the family allegedly found three burn marks, consistent with those made by electric shocks, on his head, and scars on his nose and forehead. An official autopsy reportedly found that Milan Jezdovic died of a heart attack.

1433. The Government reported that the District Public Prosecutor's Office of Belgrade filed an application to the Investigating Judge of the Court to start an investigation into the case. The Government indicated that, upon examination of the corpse, it was established that the death of Milan Jezdovic had occurred due to a sudden cardiac arrest and that metabolites and amphetamines had been found in his body. Meanwhile, the Investigating Judge was requested to obtain an internal control report from the Supervision Division of the Belgrade Police Department. It was also said that he presented bruises, haematomas and skin lesions caused by a blunt object. Upon investigation, it was found that the conduct of the Crime Investigation Fourth Division prior to bringing the above-named persons to the police premises had been in accordance with legal norms and service rules and that there were no indications that they had been mistreated.

1434. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002 for which no response had been received.

Follow-up to previously transmitted communications

1435. By letters dated 22 November 2002 and 19 November 2003, the Government responded to a communication transmitted by the Special Rapporteur on 2 September 2003 (E/CN.4/2003/68/Add.1, paras. 1964 et seq.) and provided information on the following cases.

1436. Concerning allegations regarding the **Leskovak area** (ibid., para. 1964), the Government reported that investigations were still under way. The Ministry for Internal Affairs underlined that it was not accurate to claim that from January 2002 more than 100 complaints had been filed against police officers of Leskovak

Secretariat for Internal Affairs. During this period, 28 petitions were submitted with regard to work conducted by the police, of which 22 proved to be unfounded and five to be founded.

1437. Concerning **Sheptin Sgabani** and **Murat Zecirra** (ibid., para. 1964), the Government reported that the cases were not mentioned in the report submitted by the Ministry for Internal Affairs.

1438. Concerning **Georg Tani** (ibid., para. 1965), the Government reported that it was not possible, on the basis of the information submitted by the Special Rapporteur, to establish the facts.

1439. Concerning **Kosta Stankovic**, **Nemanja Jovic** and **Milan Milovanovic** (ibid., para. 1967), the Government reported that, on 30 March 2002 in the premises of Belgrade's Secretariat for Internal Affairs, they confirmed that they were insulted and ill-treated by police officers on 16 March 2002. Nemanja Jovi produced a medical certificate which recorded only an old burst eardrum. However, the police officers strongly denied their claims. The Government reported that following review of relevant information it was noted that there was no material evidence that permitted to establish possible accountability.

1440. Concerning **Nenad Miljkovic** (ibid., para. 1968), the Government reported that charges had been pressed against three police officers and that the procedure was under way. The police officers had been dismissed from the Ministry for Internal Affairs and a disciplinary procedure was instituted on suspicion of serious breaches of professional responsibilities and duties.

1441. Concerning **Nenad Zivkovic** (ibid., para. 1969), the Government reported that charges had been pressed against two police officers and that the procedure was underway. The police officers had been dismissed from the Ministry for Internal Affairs and a disciplinary procedure was instituted on suspicion of serious breaches of professional responsibilities and duties. However, it was not established whether the two police officers had harmed in some way Nenad Zivkovic's mother.

1442. The Government also reported that, from January to September 2002, criminal charges were filed against 182 members of the Ministry for Internal Affairs and demands were made to institute proceedings against 314 members of the Ministry for Internal Affairs. The Government also reported that, due to serious breaches of professional duty, 150 members of the Ministry for Internal Affairs were suspended. Following disciplinary measures, eight members were dismissed, 21 members were posted to inferior positions and 104 were fined.

Sierra Leone

1443. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a case transmitted in 2002 for which no response had been received.

Slovakia

1444. By letter dated 22 August 2003, sent jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related forms of intolerance, the Special Rapporteur advised the Government that he had received information according to which the police conducted an operation in the isolated **Roma settlement in Plavecký ètvrtok** on 19 September 2000. In the course of the operation, around 20 officers of the Rapid Response Unit and six members of the Slovak Police Force, said to be wearing masks, allegedly indiscriminately beat and kicked their inhabitants, including women and children and shouted racist insults. Law enforcement agents were allegedly looking for a man who had been sentenced to one year's imprisonment in April 2000, and two other Roma who had reportedly obstructed the police in their attempts to arrest him four days earlier.

Observations

1445. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Human Rights Committee (CCPR/CO/78/SVK, para. 11) about the persistent allegations of police harassment and ill-treatment during police investigations, particularly of the Roma minority, which the delegation described as resulting from psychological failure to handle the situation rather than to problems with legislation or police incompetence (arts. 2, 7, 9, 26).

Spain

1446. Por carta de fecha 13 de agosto de 2003, el Relator Especial notificó al Gobierno que había recibido información sobre **Kingsley Ozazuwa**, un solicitante de asilo nigeriano que estaría en el Centro de Estancia Temporal de Inmigrantes (CETI) en Ceuta, desde diciembre de 2000. Habría tenido un altercado con uno de los guardias el 21 de abril de 2001, durante el cual habría recibido una fuerte patada en el estómago. El guardia se habría disculpado. Sin embargo cuando Kingsley Ozazuwa habría insistido en que llamaran a la policía, habría sido golpeado por dos otros guardias. Habría sido sacado del comedor a rastras y dejado tendido en el suelo inconsciente mientras los guardias llamaban a la policía. Seguidamente habría sido trasladado a un hospital. Habría permanecido cuatro días ingresado en el centro médico del CETI. Posteriormente habría sido llevado a la comisaría de policía nacional de Los Rosales, donde habría intentado sin éxito presentar una denuncia por malos tratos. Habría permanecido 24 horas recluido en la comisaría antes de comparecer ante un juez y ser acusado de "lesiones y hurto". Aunque había un intérprete y un abogado designado por el tribunal, Kingsley Ozazuwa, que no hablaba español, no habría comprendido en aquel momento que había sido acusado de este delito. La hoja de acusación que le dieron no estaba traducida. Tampoco le habrían dado copia del parte médico del hospital, con la que habría podido sustentar su propia denuncia. Kingsley Ozazuwa habría sido expulsado del CETI con carácter definitivo.

1447. Por carta con fecha 28 de noviembre de 2003, el Gobierno informó que Kingsley Osazuwa no presentó ninguna solicitud de asilo. El 21 de abril de 2001, al ser requerido para que guardara su turno en la fila del comedor contestó a grandes gritos, empujó a un vigilante y se tiró al suelo sin que éste lo hubiera tocado. Los vigilantes lo sacaron fuera del comedor. A su regreso, Kingsley Osazuwa agredió por la espalda a un vigilante del Centro y provocó una pelea en la que fue requerida la

presencia de funcionarios de la policía. Seguidamente se trasladó al hospital a cuatro vigilantes y a Kingsley Osazuwa, quien se tiró nuevamente al suelo. En los partes médicos no se apreció ninguna patología, mientras que a los cuatro vigilantes se les diagnosticó politraumatismo en diferentes partes del cuerpo. El Gobierno informó igualmente de que, instruido el oportuno expediente administrativo, se dictó resolución contra él. Dicha resolución fue recurrida ante la Sala de lo Contencioso Administrativo del Tribunal Superior de Justicia de Andalucía, sin que hasta la fecha se haya dictado sentencia.

1448. Durante su visita en España del 5 al 10 de octubre de 2004, el Relator Especial notificó al Gobierno que había recibido información sobre los casos individuales siguientes. Por carta con fecha 17 de noviembre de 2003, el Gobierno proporcionó más información sobre dichos casos.

1449. **Unai Gonzalez Azua, Xabier Abasolo Osinaga, Gorka Betolaza Vilagrasa y Oier Oa Pujol** habrían sido detenidos en Vitoria-Gasteiz el 8 de marzo de 2002 y mantenidos en detención incomunicada durante un periodo de tres días por la Policía Nacional. Unai Gonzalez Azua habría recibido golpes en la cabeza y patadas, especialmente en las piernas, durante un interrogatorio. En otra ocasión, un agente lo habría cogido fuertemente del cuello y tirado contra una pared. Mientras habría sido obligado a permanecer de pie habría recibido sopapos y patadas en las piernas. Unai Gonzalez Azua habría sido presentado delante del Juzgado Central de Instrucción n.º 5 y posteriormente transferido en prisión. Una denuncia sobre estos supuestos malos tratos habría sido interpuesta ante el Juzgado de Instrucción n.º 1 de Vitoria-Gasteiz el 4 de junio de 2002 y se habría iniciado una investigación. Xabier Abasolo Osinaga habría sido golpeado en la cabeza mientras habría sido transferido a la comisaría de Olagibal. En la comisaría habría sido forzado a permanecer de pie contra una pared, algunas veces con los brazos levantados y, en esta posición, habría recibido varios golpes en la cabeza, el cuello y los testículos. También habría sido golpeado durante el primer interrogatorio. Durante el trayecto a Madrid, habría tenido que permanecer cubierto con una manta sucia y con la cabeza agachada. Xabier Abasolo Osinaga habría sido presentado delante del Juzgado Central de Instrucción n.º 5 y posteriormente transferido en prisión. Una denuncia sobre estos supuestos malos tratos habría sido interpuesta ante el Juzgado de Instrucción n.º 1 de Vitoria-Gasteiz el 21 de mayo de 2002 y se habría iniciado una investigación. Gorka Betolaza Vilagrasa habría sido golpeado durante los interrogatorios. En particular habría recibido un fuerte golpe con un libro en las cervicales y una patada en el estómago. Los agentes le habrían colocado una barra de hierro debajo de los brazos detrás de la espalda y empujado la barra hacia arriba, amenazándole con dislocarle los brazos. También le habrían colocado un casco de tal modo que le costaba respirar y no podía ver. Durante el trayecto a Madrid, habría tenido que permanecer con la cabeza tapada y agachada y las manos fuertemente esposadas a la espalda, habría sido amenazado y habría recibido golpes. Durante un interrogatorio, habría recibido golpes, en particular en los testículos. Dichos golpes no habrían sido muy fuertes pero sí constantes. Se alega igualmente que le habrían colocado una bolsa en la cabeza, impidiéndole respirar. Con la cabeza tapada con la bolsa, habría recibido más golpes en los testículos. Posteriormente, un inspector le explicó los motivos de su detención. Gorka Betolaza Vilagrasa habría sido presentado ante el Juzgado Central de Instrucción n.º 5 y posteriormente transferido en prisión. Una denuncia sobre estos supuestos malos tratos habría sido interpuesta ante el Juzgado de Instrucción n.º 1 de San Sebastián el

4 de junio de 2002 y un acto de inhibición habría sido presentado al Decano de Vitoria-Gasteiz el 7 de junio de 2002. Oier Oa Pujol habría sido obligado a permanecer de pie contra una pared durante los interrogatorios y habría perdido el conocimiento. Habría sido sujetado por el cuello y abofeteado. Más tarde, le habrían colocado la cabeza entre las piernas y habría recibido un fuerte golpe en la espalda. Habría perdido el conocimiento una segunda vez. Oier Oa Pujol habría sido presentado ante el Juzgado Central de Instrucción n.º 5 y posteriormente puesto en libertad. Una denuncia sobre estos supuestos malos tratos habría sido interpuesta ante el Juzgado de Instrucción n.º 3 de San Sebastián el 30 de octubre de 2002.

1450. El Gobierno informó que Unai Gonzalez Azua, Xabier Abasolo Osinaga y Gorka Betolaza Vilagrasa fueron detenidos bajo la imputación de integración en banda armada. Fueron trasladados a sus respectivos domicilios para efectuar registros domiciliarios en presencia de la autoridad judicial. Seguidamente fueron trasladados a dependencias policiales de Bilbao, donde fueron examinados por un médico forense, y posteriormente a Madrid. A lo largo de su detención fueron examinados diariamente por un médico forense. Los resultados de los exámenes médicos fueron transmitidos al órgano judicial competente. El Gobierno aseguró que los derechos de los detenidos fueron respetados escrupulosamente. El médico forense no ordenó la evacuación hacia un centro hospitalario ni dispensó medicación para ninguno de ellos. No se dirigió acusación alguna contra los agentes intervinientes. En cuanto a Oier Oa Pujol, el Gobierno informó que se encontraba huido de la justicia e integrado en ETA.

1451. **Josu Ozaita Azpiroz, Haritz Sudupe Beraza e Ibon Aranalde Ijurko** habrían sido detenidos por la Guardia Civil el 8 de octubre de 2002 en Ibarra y mantenidos en detención incomunicada hasta tres días, cuatro días en el caso de Josu Ozaita Azpiroz. Habrían sido presentados ante el Juzgado Central de Instrucción n.º 4 y posteriormente transferidos en prisión. Josu Ozaita Azpiroz habría sido golpeado en la cabeza durante su traslado a Madrid. Habría tenido que hacer todo el viaje esposado, encapuchado y agachado. Habría sido obligado a cantar y amenazado con ser torturado a su llegada a Madrid. En un calabozo de Madrid habría tenido que permanecer de pie con los brazos levantados y los ojos cerrados mientras habría sido interrogado. Habría recibido golpes en la parte trasera de la cabeza y le habrían gritado en el oído. Le habrían colocado una bolsa en la cabeza, provocándole dificultades para respirar. Una denuncia sobre este supuesto trato habría sido interpuesta ante el Juzgado de Instrucción n.º 2 de San Sebastián el 30 de diciembre de 2002. Haritz Sudupe Beraza habría sido asfixiado con una bolsa y amenazado repetidamente. Con la bolsa en la cabeza, le habrían inmovilizado las piernas y tocado los testículos provocándole dolor, y le habrían dado golpes en la cabeza. En un calabozo de Madrid habría sido obligado a permanecer de pie contra una pared y habría sido fuertemente golpeado en la boca, provocándole una herida en el labio. Una denuncia sobre este supuesto trato habría sido interpuesta ante el Juzgado de Instrucción n.º 2 de San Sebastián el 27 de diciembre de 2002. Ibon Aranalde Ijurko habría hecho el trayecto hasta Madrid esposado, con la cara tapada y con la cabeza entre las rodillas. Una vez llegado a Madrid, habría sido llevado a una sala donde habría sido golpeado, en particular en la cabeza, por cuatro agentes. Estos le habrían bajado los pantalones y sometido a vejaciones sexuales. Otro agente le habría administrado dos bofetadas. Una denuncia sobre este supuesto trato habría sido interpuesta ante el Juzgado de Instrucción n.º 24 de San Sebastián el 27 de diciembre de 2002.

1452. El Gobierno informó que estas personas eran integrantes de comandos de apoyo a ETA. Fruto de la operación en la que fueron detenidas, se esclarecieron una decena de acciones de terrorismo callejero y se incautó de un manual de ETA y material en disposición de ser empleado en inminentes acciones de terrorismo callejero. Una vez detenidos, se les informó sobre sus derechos y se registraron sus domicilios en presencia de la autoridad judicial. Fueron trasladados a dependencias de la Dirección General de la Guardia Civil donde fueron reconocidos diariamente y a diferentes horas por el médico forense de la Audiencia Nacional, sin que se emitiera parte facultativo alguno a la fuerza instructora. Los detenidos fueron puestos a disposición del Juzgado Central de Instrucción n.º 4 de la Audiencia Nacional de Madrid el 11 de octubre de 2002. Se decretó prisión incondicional. Finalmente, el Gobierno informó que no se dirigió acusación alguna contra los agentes intervinientes.

1453. **Martxelo Otamendi**, director del periódico *Euskaldunon Egunkaria*, habría sido detenido juntamente con otros diez periodistas más y miembros del consejo de administración del periódico el 20 de febrero de 2003. Habrían sido detenidos bajo sospecha de pertenecer o colaborar con una organización terrorista. Este mismo día, se cerró el periódico como medida preventiva. La orden de detención y de cierre del periódico habría sido dada por un juez de la Audiencia Nacional. Todos los detenidos habrían permanecido recluidos en régimen de incomunicación en virtud de la legislación antiterrorista y posteriormente conducidos a la Audiencia Nacional en Madrid. Se alega que durante la detención incomunicada, Martxelo Otamendi y otros detenidos habrían sido obligados a realizar ejercicios físicos agotadores y sometidos a ejecuciones simuladas. La cabeza de Otamendi habría sido cubierta con una bolsa de plástico, lo que le habría provocado asfixia. De acuerdo con la información recibida, en marzo de 2003, el Gobierno anunció que iba a emprender medidas legales contra cuatro directivos del periódico por «acusar en falso» de actos de tortura a miembros de la Guardia Civil.

1454. El Gobierno informó que el arresto se llevó a cabo bajo la acusación de un supuesto delito de terrorismo y cumplimentando todas las garantías constitucionales. Durante el tiempo que duró la detención policial, Martxelo Otamendi y los otros periodistas detenidos estuvieron en todo momento bajo control judicial y se les practicaron reconocimientos médicos diarios y a diferentes horas por el Forense adscrito al Juzgado Central de Instrucción competente, sin que se emitiera parte facultativo alguno a la fuerza instructora. En relación con las declaraciones públicas efectuadas por algunos de los detenidos según las cuales habían sido sometidos a tortura o malos tratos durante su detención, el Gobierno informó que se presentó una denuncia en el Juzgado Central de Instrucción n.º 1 de la Audiencia Nacional de Madrid contra Martxelo Otamendi y los otros autores de las declaraciones, por entender que pudiera tratarse de un supuesto delito de colaboración con banda terrorista ya que habrían seguido las instrucciones de ETA, que aconseja a sus militantes que denuncien sistemáticamente torturas cuando son detenidos, como estrategia para desgastar a los agentes de los cuerpos de seguridad. El Gobierno informó igualmente que Martxelo Otamendi formuló una denuncia ante el Juzgado de Instrucción n.º 5 de Madrid por supuestos malos tratos. Este procedimiento estaba en fase de instrucción, pendiente de diversos informes médicos. Hasta la fecha, no se había dirigido ninguna acusación contra los agentes intervinientes. Ello ha provocado la paralización de la denuncia hasta que se sustancie este procedimiento.

1455. En relación con el llamamiento urgente que le Relator Especial envió el 2 de octubre de 2002, al cual el Gobierno contestó por carta de fecha 15 de noviembre de 2002 (E/CN.4/2003/68/Add.1, párrs 1368 y 1369), durante su visita a España el Relator Especial notificó al Gobierno que había recibido la siguiente nueva información sobre los siguientes casos. Mediante la misma carta de fecha 17 de noviembre de 2003, el Gobierno proporcionó información sobre cada uno de ellos.

1456. **Oihane Bakedano Mallagarai** habría sido detenida por la Guardia Civil el 28 de septiembre de 2002 en San Sebastián y habría sido mantenida en detención incomunicada durante cinco días. Su cabeza habría sido repetidamente introducida en un cubo lleno de agua, habría sido desnudada, sometida a tocamientos, golpeada y amenazada con ser violada. Una bolsa y un casco de moto habrían sido colocados en su cabeza, provocándole dificultades para respirar. Durante el trayecto a Madrid, habría sido mantenida esposada y con las piernas atadas con gomaespuma y golpeada nuevamente. En Madrid le habrían colocado de nuevo una bolsa en la cabeza. Se alegó igualmente que la habrían desnudado e inmovilizado envolviendo su cuerpo con una colchoneta. Habría sido aplastada entre dos colchonetas y golpeada en la cabeza. Mientras estaba desnuda, la habrían sometido a más tocamientos y vejaciones sexuales. Habría sido presentada ante el Juzgado Central de Instrucción n.º 2 y posteriormente transferida en prisión. Una denuncia sobre estos supuestos malos tratos habría sido interpuesta al Juzgado de Instrucción n.º 14 de San Sebastián el 27 de diciembre de 2002.

1457. **Rafael Berasategi Lizarbide** habría sido detenido por la Guardia Civil el 28 de septiembre de 2002 en Segura y mantenido en detención incomunicada durante tres días. Durante un traslado en automóvil, habría sido golpeado y amenazado de muerte. Durante los interrogatorios a los que habría sido sometido en Madrid, habría sido forzado a permanecer de pie contra una pared, su cabeza habría sido tapada con una bolsa varias veces y habría recibido patadas. Habría sido presentado ante el Juzgado Central de Instrucción n.º 2 y posteriormente puesto en libertad. Una denuncia sobre estos supuestos malos tratos habría sido interpuesta ante el Juzgado de Instrucción n.º 5 de San Sebastián el 27 de diciembre de 2002 y un acto de inhibición habría sido presentado al juez decano de Madrid el 3 de enero de 2003.

1458. **Aizeti Fernández Zabala** habría sido detenida por la Guardia Civil el 29 de septiembre de 2002 en Gatika y mantenida en detención incomunicada durante cinco días. Le habrían ordenado ponerse de pie contra una pared y golpeado con bloques de hojas enroscados en la cabeza. Le habrían colocado una bolsa en la cabeza repetidas veces. Habría sido conducida a un hospital. Durante su declaración, en la cual no habría visto a su abogado, pues éste se habría mantenido detrás de ella, Aizeti Fernández habría alegado haber sido torturada. El agente que tomaba la declaración le habría contestado que en aquel momento no se podía denunciar torturas. Habría sido presentada delante del Juzgado Central de Instrucción n.º 2 y posteriormente transferida en prisión. Una denuncia sobre estos supuestos malos tratos habría sido interpuesta ante el Juzgado de Instrucción n.º 1 de San Sebastián el 27 de diciembre de 2002 y un acto de inhibición habría sido presentado al juez decano de Madrid el 3 de enero de 2003.

1459. **Oihana Lizaso Matxain** (m) y **Jokin Errasti Elorza** habrían sido detenidos por la Guardia Civil el 30 de septiembre de 2002 en Usurbil y mantenidos en

detención incomunicada durante cinco días. Se alega que habrían sido sometidos a actos de tortura y otros malos tratos. Habrían sido presentados ante el Juez Central de Instrucción n.º 2 y posteriormente transferidos en prisión. Una denuncia habría sido interpuesta en relación con el tratamiento supuestamente recibido durante su detención incomunicada ante el Juzgado de Instrucción de San Sebastián el 27 de diciembre de 2002 y un acto de inhibición habría sido presentado al juez decano de Madrid el 24 de enero de 2003. En relación con Oihana Lizaso Matxain, se alega que unos agentes le habrían bajado los pantalones y quitado la camiseta y que habría sido sometida a tocamientos. Habría recibido golpes en la cabeza y gritos en los oídos. Le habrían colocado una bolsa en la cabeza y tapado la nariz y la boca. Durante un trayecto en automóvil, habría sido amenazada de muerte y golpeada de nuevo en la cabeza. En Madrid habría sido golpeada, obligada a desnudarse y sometida a vejaciones sexuales. Desnuda, habría sido inmovilizada entre dos colchones con la cabeza cubierta con una bolsa y abofeteada. Jokin Errasti Elorza habría sido golpeado repetidamente en la cabeza. Durante un trayecto en automóvil, le habrían colocado una bolsa de plástico en la cabeza y golpeado. En Madrid habría sido obligado a permanecer de pie contra una pared de su celda durante cierto tiempo. Luego habría sido conducido a otra habitación donde habría sido golpeado en la cabeza, las costillas y los testículos. Lo habrían sentado en una silla e inmovilizado cubriendo sus brazos y piernas con gomaespuma. En esta posición, una bolsa de basura habría sido colocada en su cabeza, provocándole dificultades para respirar. Habría sido conducido a la celda, donde habría sido de nuevo obligado a permanecer de pie contra una pared.

1460. El Gobierno informó de que fruto de la operación en la que fueron detenidas estas personas se dismanteló el denominado “Complejo Donosti” de ETA, se desarticularon siete de sus comandos y se esclarecieron dos asesinatos y dos atentados mediante colocación de artefactos explosivos. También se incautó de material en disposición para ser empleado en inminentes atentados e información para atentar contra determinadas personalidades. Una vez detenidas, las personas mencionadas fueron informadas de sus derechos y sus domicilios fueron registrados en presencia de la autoridad judicial. Fueron trasladadas a dependencias de la Dirección General de la Guardia Civil donde fueron reconocidas diariamente y a diferentes horas por el médico forense de la Audiencia Nacional, sin que se emitiera parte facultativo alguno a la fuerza instructora. No obstante, según informó el Gobierno, se produjeron algunas incidencias. Ohiana Baquedano Maigagán se negó a ser reconocida en distintas ocasiones. Aizeti Fernández Zabala fue trasladada al Hospital San Carlos de Madrid el 30 de septiembre de 2002 tras sufrir un mareo. Los días 3 y 4 de octubre de 2002 Ohiana Baquedano Maigagán, Aizeti Fernández Zabala, Rafael Berastegui Lezarbide, Ohiana Lizaso y Jokin Erraste fueron puestos a disposición del Juzgado Central de Instrucción n.º 3 de la Audiencia Nacional de Madrid. Tras tomarles manifestación, la juez decretó prisión incondicional para cuatro de ellos y libertad sin fianza para Rafael Berastegui Lezarbide. Finalmente, el Gobierno subrayó nuevamente que la formulación sistemática de denuncias de malos tratos y tortura forma parte de una estrategia de ETA.

Sri Lanka

1461. By letter dated 25 September 2003, the Special Rapporteur advised the Government that he had received information on the following cases. By letter dated 4 December 2003, the Government responded to some of the cases.

1462. **Hetti Kankanamalage, Chandana Jagath Kumar**, aged 23, and **Ajith Shantha Kumana Peli**, aged 32, were reportedly arrested on 13 May 2003, at around 2.30 p.m. by six policemen from the Biyagama police force. The detention of the above-mentioned persons reportedly occurred following a fight instigated by six drunken policemen. It is alleged that Chandana Jagath Kumar was severely beaten with rifle butts and sustained a head injury which required eight stitches. It is alleged that Hetti Kankanamalage, Chandana Jagath Kumar and Ajith Shantha Kumana Peli were taken to the hospital only when their injuries worsened. Upon his release the policemen threatened Chandana Jagath Kumar, saying that he would be produced in court with a bomb ensuring a long jail sentence.

1463. On 20 July 2003, in relation to a theft enquiry, **B. G. C. B. J.**, a 17-year-old resident of Dolaphilla, was reportedly taken to a police jeep where a sergeant allegedly hit him 10 times on the face and body. **B. G. C. B. J.**'s cousin, **U.**, and **B. P. K.**, aged 14, were reportedly brought to the jeep too. One of the policemen reportedly held a gun to his **U.**'s head and threatened to kill him if **B. G. C. B. J.** did not confess. The three were allegedly taken to the Ankumbura police station at about 6 p.m., where it is alleged that the Inspector of Police hit **B. G. C. B. J.** and kicked him on the spine and in the face. He was allegedly handcuffed to a bed. **B. G. C. B. J.** was reportedly released. He was brought back the next day taken to a room with a bed and told to take off his shirt and lie down. It is reported that one officer sat on his back and held him down, while he was beaten on his feet by the officer-in-charge (OIC). Another officer allegedly hit **B. G. C. B. J.** on the soles of his feet with a cricket stump, cane and pole. It is reported that when he refused to confess he was hit further. A polythene bag which contained petrol was allegedly tied to his face and he was threatened with being burned and killed. The OIC reportedly told the officer to hang him up. He allegedly had his arms tied behind his back by thumbs and was hung from the ceiling while he was continuously beaten. As a result, his arms became numb. It is believed that, as a result of the treatment received, **B. G. C. B. J.** informed who his friends were, and confessed to the thefts. Furthermore, it is reported that on 27 July 2003 he was obliged to sign an empty report. On 30 July **B. G. C. B. J.** was taken to a court, given bail and told to report weekly to Ankumbura police station. It is also believed that starting 31 July 2003 he received treatment in a hospital in Kandy for six days. The medical examination report allegedly stated that he has lost the use of his left arm permanently. It is alleged that his legs were swollen, and his hands numb and that he had headaches. A complaint was reportedly filed with the hospital police and the Ankumbura police station. **B. P. K.** is reported to have been held in detention at the police station for eight days. It is reported that his family was not allowed to visit him. **B. P. K.**'s brother, **S. K.**, aged 17, was reportedly arrested at home on 22 July 2003 at about 7 p.m. and held in detention at the police station with his brother until 28 July 2003. While in detention, he was allegedly hung by his thumbs and his legs were allegedly pulled down while he was in that position. Later, he was allegedly positioned in the manner reportedly known as Dharma Chakkara—tying of the hands in a way to cover the knees, putting a poll between the two arms and turning the person while being beaten on the soles. It is further reported that the two brothers were forced to make false statements. **B. P. K.** was reportedly implicated in 13 fabricated cases, and **S. K.** on 12 charges. On 28 July 2003 they were reportedly brought to the magistrate and remanded in custody, until their release on bail on 15 August 2003.

1464. **Ramiya Saravanarajah**, aged 26, **Ramiya Dhanapala Singham**, aged 23 and **Murugaiya Prabhakaran**, aged 25, tea plantation workers, residents of Chapelton Estate, Bogawantalawa. They were reportedly beaten by the police on 7 July 2003 at around 5.30 p.m. on their way from the Bogawantalaw police station after making a complaint against a three-wheeler driver who allegedly knocked down R. Dhanapala Singham. The three persons named above were beaten with sticks and kicked by three people in civilian clothing, who were believed to be police officers at the Bogawantalawa police, including its officer-in-charge (OIC). They were reportedly taken to the police station, where they were subjected to further forms of torture or ill-treatment. Ramiya Saravanarajah was allegedly visited by a doctor but previously warned by the OIC not to tell the doctor that he had been assaulted by him but rather by the above-mentioned three-wheeler driver. It is further alleged that while he was being examined by the doctor, the OIC held a pistol against his brother, Murugaiya Prabhakaran, and threatened to shoot him if he told the doctor that he had been assaulted by him. It is reported that the doctor did not ask Ramiya Saravanarajah anything and did not examine his wounds or his brother's injuries. The three men were reportedly obliged to sign a document which was later submitted to the magistrate in Hatton. It is said that their lawyer denounced the treatment allegedly received before the Magistrate on 8 July 2003, but this complaint was allegedly ignored. It is believed that, after 14 days of detention ordered by the Magistrate, they were released from prison and hospitalized at the Nuwara Eliya Hospital for four days. The police reportedly made a complaint against Ramiya Saravanarajah, Ramiya Dhanapala Singham, and Murugaiya Prabhakaran accusing them of having assaulted the above-mentioned three-wheeler driver. It is reported that efforts made by the three above-named persons to make a complaint to the Superintendent of Police, regarding the alleged failure of the police to inquire into their alleged acts of torture, met with no success. It is reported that the alleged victims were finally able to make a complaint through the mediation of the Kandy Justice, Peace and Human Development committee. The Assistant Superintendent of Police allegedly refused to accept their complaint but later, on the evidence provided, reportedly recorded separate statements from each of the three above-named individuals. It is also alleged that no investigation had been conducted regarding this complaint.

1465. **Michael Anthony Fernando** was reportedly assaulted by police officers while being held in prison, on 17 February 2003. As a result of the attack, Michael Anthony Fernando reportedly sustained severe injuries, including a fractured spinal cord. According to the information received, he was taken to National Hospital in Colombo, where police officers guarding him as well as a prison guard allegedly denied him family visits.

1466. **S. I. M. Nazer**, aged 36, was reportedly arrested by Hinkurathoda police on 3 December 2002 at 10 p.m., in connection with a forgery investigation. It is reported that he was assaulted by four police officers before being taken to Hinkurathoda police station. That night the officers allegedly assaulted him using a wire and pipe. In addition, S. I. M. Nazer was allegedly denied any medical treatment at the time. Representatives of the Vavuniya district office of the National Human Rights Commission (NHRC) reportedly visited the Hinkurathoda police station on 4 December 2002. It is believed that the NHRC representatives reported that he "blood-coloured patches" all over his body, and an injury to his eye.

1467. **J. Tahsleem**, aged 33, was reportedly arrested by Hinkurathoda police on 3 December 2002 at 8 p.m., in relation to a forgery investigation. He was reportedly assaulted upon arrest. That night, two officers allegedly beat his hands and feet using sticks and belts. He was allegedly denied any medical treatment at that time. Representatives of the Vavuniya district office of NHRC reportedly visited the Hinkurathoda police station on 4 December 2002. It is also believed that the NHRC representatives reported that A.J. Tahsleem had visible injuries on his neck and on the lower part of one of his legs.

1468. **Sellathurai Kanthen**, aged 20, was reportedly arrested on 24 December 2002 and taken to Vavuniya police station, in relation to a robbery investigation. He was allegedly tied and hung off the ground by several police officers while in custody. It is also alleged that he was denied medical treatment. He reportedly remained in police custody until he received a visit by the representatives of the Vavuniya district office of the NHRC. It is believed that the NHRC representatives reported that Sellathurai Kanthen had injuries to the lower part of one of his legs, and was experiencing difficulty walking.

1469. **Thankarajaha Thanapalan**, aged 20, was reportedly arrested on 20 December 2002 and taken to Vavuniya police station, in relation to a robbery investigation. He was reportedly tied and hung off the ground by several police officers while in custody. In addition, police officers allegedly took him to several unknown locations, where he was threatened and asked questions not related to his detention. He was allegedly been denied medical treatment. It is believed that NHRC representatives reported that Thankarajaha Thanapalan had injuries to one of his legs, including bleeding, and was experiencing difficulty walking.

1470. **Manokaran Prakalatharan**, aged 24, was reportedly arrested on 26 December 2002 and taken to Vavuniya police station, in relation to a robbery investigation. While in police custody he was allegedly tied and hung off the ground. In addition, police officers allegedly took him to several unknown locations, where he was threatened and asked questions not related to his detention. He was allegedly denied medical treatment. He is reported to have remained in police custody until he received a visit by representatives of the Vavuniya district office of the NHRC. It is believed that NHRC representatives reported that Manokaran Prakalatharan had injuries on the lower upper part of one of his legs, and was experiencing difficulty walking.

1471. **Mahooroff Musamil**, aged 20, was reportedly arrested on 26 December 2002 on suspicion of murder. It is alleged that he has been tied and hung off the ground by several police officers while in custody. It is also alleged that he was taken to several unknown locations by several police officers, who allegedly also threatened him. It is also reported that he remained in police custody until a visit by representatives of the Vavuniya district office of NHRC. It is believed that NHRC representatives noticed injuries on the lower upper part of one of his legs, and that he was experiencing difficulty in walking.

1472. **A. D. Ajith Rohana Chandrakumara**, resident in Ganemulla, was reportedly arrested and held in detention at the Meegaswatte police station on 2 November 2002. The Supreme Court reportedly declared on 5 June 2003 that an

Inspector, Officer in Charge of the Special Investigations Unit of the Peliyagoda police station was guilty of torturing J.A.D. Ajith Rohana Chandrakumara, and was ordered to pay compensation.

1473. **Paskaran**, aged 25, was reportedly arrested on 30 September 2001 by army personnel in Vakaraï, Batticaloa district, on suspicion of being a “terrorist”, and kept in the Vakaraï army camp for three days. He was allegedly struck on the hands and feet with sticks and a cricket bat and subsequently denied medical treatment. He was reportedly transferred to the custody of the Batticaloa police who took him before a magistrate. Following this hearing, he was reportedly transferred to Anuradapura Prison where he was provided with medical treatment. It is believed that NHRC representatives in Vavuniya noticed black marks on the lower part of one of his legs and on his back.

1474. **T. Tharmarajan**, aged 20, was reportedly arrested on suspicion of murder by Vavuniya police on 17 May 2002 and kept in police custody for more than three days, during which time he was allegedly assaulted and beaten with poles by police personnel. It is alleged that he was denied medical treatment. He was reportedly later brought before a magistrate.

1475. **V. Rajandran** was reportedly arrested on 26 October 2002 at 8 p.m. on suspicion of holding an unlicensed gun. While in police custody, presumably at Murankan police station, Vavuniya, he was allegedly punched and kicked by a sub-inspector. V. Rajandran was allegedly not provided with medical treatment for the injuries he sustained on his back. It is also reported that he was brought before Murankan Magistrate Court on 27 October 2002, where he talked with representatives of the Vavuniya district office of NHRC.

1476. **V. S., S. J., S. S. and K. J.**, aged between 14 and 16, and originally from the Killinochi district. They were reportedly arrested on 30 October 2002 at Poonthoddam Refugee Camp, Vavuniya, on suspicion of stealing money. They were allegedly punched, kicked and beaten with sticks by the police in the refugee camp, including the police officer in charge of the camp. They were reportedly taken to Vavuniya police station. They reportedly complained of having neck pains from the beatings they received. It is alleged that they were denied medical treatment.

1477. **Santhirlinkam Inpasanthiran** was reportedly arrested on 26 September 2002 at 8 p.m., on suspicion of involvement in a murder. He was reportedly held at Vavuniya police station where it is alleged that he was made to strip naked, was punched, kicked and beaten with sticks. It is believed that representatives of the Vavuniya district office of NHRC noticed an injury to his upper leg. It is also alleged that he did not receive any medical treatment for this injury until the following day, when he was treated in a hospital. On 27 September 2002, at 9.45 p.m., he was reportedly brought before a magistrate. It is reported that after the hearing the police took him back to the police station, where he was held on remand.

1478. **Arumugam Manookaran** was reportedly arrested on 28 September 2002, at 3 p.m., on suspicion of involvement in a murder. He was reportedly taken to Vavuniya police station where he was allegedly punched and kicked by police officers. He was allegedly denied any medical treatment for the injuries he received to

his stomach. He was reportedly brought before a magistrate on the night of 28 September 2002.

1479. **Gunanayagam Kitnamoorthi**, resident of Poonagar, Muthur, Trincomalee district, was reportedly arrested on 5 September 2002 on suspicion of murder. He was reportedly taken to Alioluwa police station, where he was subjected to the so-called “Dharma Chakkara method” (the detainee is tied up and suspended from a wooden pole which is attached to the roof) by the Officer in charge. It is also alleged that a plastic bag was put over his head and tied at the neck. He was allegedly denied medical treatment. It is said that his mother was also taken to the police station but was released the same day. Gunanayagam Kitnamoorthi reportedly remained in police custody for one day, and was later taken to appear before a magistrate. He was reportedly transferred to Trincomalee Remand Prison. It is also reported that representatives of the Trincomalee branch of the Human Rights Task Force (NHTF) visited Gunanayagam Kitnamoorthi and reported that he had wounds on the back of his left thigh and on his right foot. His right foot was allegedly bleeding. He was reportedly taken to a hospital, where he spent four days.

1480. **L.M. Lalith Deshapriya**, a Navy officer at Welisara Naval Base, was reportedly arrested on duty along with six other officers. They were reportedly brought to Kandana police station, Gampaha district, and handed over to a captain and taken back to the Naval Base. He complained to the Supreme Court that he was blindfolded, a heated iron was placed on his back, barbed wire was reportedly inserted into his anus, and chili powder put into his nose, penis and anus. He also alleged that he was tied up and suspended from a wooden pole which was attached to the roof (a torture method known as Dharma Chakkara method—the victim is then revolved around the pole). In his fundamental-rights violation petition, he cited several superior officers as being responsible. It is reported that in February 2003 the Supreme Court ordered Lalith Deshapriya to be produced before the Ragama Judicial Medical Officer for examination. At that time, Lalith Deshapriya was reportedly being held at the Navy Welisara camp.

1481. **W.D. Nihal Wijesiri**, a constable reportedly attached to the Presidential Security Division (PSD), Colombo. He was reportedly forcibly dragged away from his home on 18 April 2002 by an inspector and other officers of the Criminal Investigation Department. He was allegedly blindfolded and driven to the CID office at Gregory’s Road, Colombo. It is alleged that he was threatened by the inspector to admit that he had been involved in a number of murders, that he had been involved in burning the house of a film star, assaulting journalists, and also involved in the so-called “Cricket Board incident”. W.D. Nihal Wijesiri reportedly denied all those allegations. He was reportedly brutally assaulted by the inspector and threatened that he would be dumped in the river Diyawanna Oya and killed unless he admitted to the crimes. He was allegedly forced to sign statements written by the inspector. He is reported to have been later taken to the General Hospital in Colombo and examined by a doctor. It is also reported that he was then taken to the Kesbawe Magistrate and remanded. The petitioner was reportedly granted bail by the High Court of Panadura on 24 September 2002. The Supreme Court reportedly granted leave to proceed with his fundamental rights violation application.

1482. The Government reported that the Special Investigation Unit (SIU), which is a specialized unit of the Sri Lanka Police established to investigate allegations of torture, commenced an investigation into this allegation. It forwarded extracts of the investigation notes to the Attorney-General's Department on 24 July 2003. The matter is under review by the Attorney-General at present.

1483. **Aruna Sharon Suranga Wijewardane**, a 27-year-old resident of Batagama South, Kandana, Colombo. He was reportedly handed over to the Criminal Investigation Department (CID) headquarters in Colombo on 26 August 2002. He was allegedly hung up, struck with poles and had his genitals sprayed with high pressure water hoses. It is also alleged that as a result of the treatment, he sustained severe swelling and the inability to urinate for a week. He was reportedly taken before the Gampaha magistrate on 27 August 2002, who ordered the police to produce him at the Gampaha Magistrate Court and to bring him before a Judicial Medical Officer (JMO) for examination and treatment. It is believed that the acting JMO directed him to be given immediate treatment at the Ragama hospital, where he reportedly received adequate treatment, before being returned to detention. It is also alleged that his father was questioned by the police for four hours, and was threatened that he would also be arrested if he tried to pass on information about his son's case to anyone.

1484. The Government informed that upon the incident being reported to the Attorney-General's Department, on 9 September 2002, the SIU recorded statements of the alleged victim and the suspected CID officers and forwarded extracts of the investigation notes to the Attorney-General's Department for decision. At the same time, there is a fundamental rights violation case filed by the alleged victim before the Supreme Court of Sri Lanka. The Attorney-General has decided to wait till the Supreme Court case is over in order to decide whether to institute criminal proceedings against the suspected officers.

1485. **Arthur Vithanage**, aged 60, and his daughter, **Anusha Vithanage**, aged 20, both residents of Ovitigala, Kalutara district, were reportedly assaulted by the police on 30 June 2002, at approximately 1 p.m. A group of police officers reportedly arrived in a jeep at Arthur Vithanage's house, and he was beaten with a club and dragged to the back of the house. Anusha Vithanage was reportedly beaten with a baton and threatened with rape and the killing of her father. Arthur Vithanage was reportedly taken to the police station and put in a cell. It is reported that he was threatened that his son's hands and legs would be broken. He was allegedly ordered to sign a statement and then put back in the cell. The same day, Arthur Vithanage was reportedly taken before a magistrate and charged with helping a suspect escape. The magistrate reportedly released him on bail. It is reported that Arthur Vithanage entered hospital the same day and remained there until 3 July 2002. He is said to have made complaints to the police, to the Assistant Superintendent of Police, Kalutara, to the Inspector General of Police and to NHRC.

1486. The Government reported that the Special Investigation Unit (SIU) recorded statements of the alleged victims and the suspected police officers. Arthur Vithanage and Anusha Vithanage stated that some police officers attached to Matugama police visited their home on 30 June 2002 to arrest Jayantha, the son of Arthur Vithanage. Jayantha argued with the police officers and left the home. The police officers then assaulted Arthur Vithanage and abused him and his

daughter. However, the two alleged victims have not identified the alleged perpetrators by names or designations. The Judicial Medical Officer who examined Arthur Vithanage afterwards, confirmed in his report that the middle finger of his right hand was dislocated and there was a fracture, and that there was an abrasion on his right leg. The suspected police officers have denied the torture allegation. SIU, after completing its investigations, forwarded an extract of the investigation notes to the Attorney-General's Department for advice. On the advice of the Attorney-General, an identification parade was held on 24 July 2003 where Arthur Vithanage did not identify any suspect, but Anusha Vithanage identified one of the suspects. SIU forwarded a report on the identification parade on 1 August 2003 for further advice, which is awaited.

1487. **S. and A. T.**, two Tamil youths residents of Alankerni and Thaha Nagar, respectively, in Trincomalee district. They were reportedly arrested under the Prevention of Terrorism Act (PTA) in January 2002. It is alleged that while in detention by Sri Lankan security forces, police officers tied a nylon rope to A. T.'s genitals and dragged him along the floor during interrogation. He was reportedly taken to hospital by the police but was not examined by the District Medical Officer (DMO). It is reported that the DMO issued a medical report without examining them. It is also reported that they were brought before the Trincomalee magistrate on 15 January 2002, who ordered that the two men should be examined by the Colombo Judicial Medical Officer.

1488. **Padukkage Nishantha Thushara Perera**, a 23-year-old man, was reportedly arrested by four police officers on 7 September 2003 at around 4.30 a.m. He was reportedly brought to the Divulapitiya police station, where he is believed to have been beaten on his spine and back. It is reported that that Padukkage Nishantha Thushara Perera had not received prompt and adequate medical treatment. His father reportedly attempted to visit him on 8 September 2003 but was arrested and kept at the same police station. The father was reportedly released on the following day, allegedly following the intervention of a local politician. It is further reported that Padukkage Nishantha Tushara Perera had been taken to a Magistrate with allegedly false charges and remanded in prison.

1489. **D. P.**, aged 14, was reportedly arrested on 1 September 2003 at around 10.30 p.m., by about six police officers dressed in civilian clothes. He was allegedly said to confess to the theft of a chain, and taken to Saliyawewa police post where his hands were reportedly tied behind him. It is reported that he was hung on a beam and subjected to torture and other forms of ill-treatment. D. P. was reportedly released on 2 September 2003. He was reportedly taken to General Hospital of Putlam on 3 September. On 5 September police officers allegedly forced D. P. to leave the hospital. It is reported that D. P. fell very ill at home but, due to alleged police pressure the hospital would not admit him. Attempts to get help from the child welfare office also reportedly failed for their alleged fear of the police. A human rights organization reached the family and tried to take the child to a hospital outside the area. Meanwhile the Child Rights Authority, reportedly took D. P. to a hospital in Colombo where he was reportedly treated. It was reported that D. P.'s family was pressured by the police to stop transmitting complaints against the police officials.

1490. **Mohamad Ameer Mohamad Riswan**, aged 23, **Suppaiya Ravichandran** and **Abdul Karim Mohamad Roshan Latief**, aged 30, were on 30 August 2003 reportedly forced into a van, blindfolded, and taken to the Wattala police station. On the night of 31 August 2003 the three men were reportedly taken to the office of the Deputy Inspector General, North Colombo at Paliyagoda. There, Mohamad Ameer, Suppaiya Ravichandran and Abdul Karim were allegedly handed over to a senior officer who allegedly beat them with a brick and other objects on their legs, stomachs, chests, and hands. It is reported that they were forced to confess to involvement in a robbery. As a result of the treatment, the three above-named persons reportedly suffered multiple injuries of differing levels of severity. They were reportedly brought back to the Wattala police station on 1 September 2003. It is reported that, following a complaint, the three men saw a Judicial Medical Officer and appeared before a Magistrate.

1491. **Sunil Hemachandra**, a 28-year-old rubber tapper, was reportedly arrested at his home on 24 July 2003 at approximately 12.15 a.m. by police officers from the Moragahahena station. It is reported that when the family went to the police station on 25 July 2003, they found him lying in a police cell, unconscious and bleeding from the nose. It is reported that he was brought to the Horana Hospital, and that he died on 26 July 2003, after having been transferred to the General Hospital in Colombo. According to the information received, several days before his arrest, Sunil Hemachandra was approached by police officers who allegedly attempted to extort money from him. It is believed that an officer from the station reported to the BBC Sinhala correspondent that Sunil Hemachandra had developed epilepsy and collapsed upon his arrival. However, it is also reported that Sunil Hemachandra had no history of illness. It is said that a complaint made to the Assistant Superintendent of Police (ASP) of Horanam regarding Sunil Hemachandra has not yielded any results. It is reported that ASP has been assigned to investigate the case along with the officers from the Moragahahena station who are reportedly suspected of causing Sunil Hemachandra's death. The ASP has allegedly made statements exonerating the police. Complaints have reportedly been made to the National Human Right Commission, the National Police Commission and other judicial agencies.

1492. The Government informed that SIU conducted an investigation into the allegation and forwarded the investigation notes on 15 September 2003 to the Attorney-General's Department, which is receiving the attention of the Attorney-General.

1493. **Ajith**, from Ganemulle, Gampaha district, aged 18. He was reportedly arrested on 15 June 2002 by the officer-in-charge of the Ganemulla police and detained without charges at Ganemulla police station. He was allegedly subjected to torture and other forms of ill-treatment. It is reported that his mother complained to the Supreme Court that her son had died during the time he was held at the Ganemulla police station. According to the information received, on 17 June 2002 the police informed Ajith's mother that her son had committed suicide by jumping in front of a train.

1494. **Garlin Kankanamge Sanjeewa**, a 25-year-old soldier, was reportedly arrested by police officers from the Kadawatta police station under suspicion of robbery on 27 August 2003. On 28 August 2003, the police reportedly found

Sanjeewa dead in his cell. The authorities reportedly claimed that Sanjeewa hung himself with the belt of his trousers because he was so ashamed to be in detention. However, it is reported that a Garlin Kankanamge Sanjeewa's relative, who allegedly saw his body, noticed a wound on one arm and blood flowing from the lower part of his body.

1495. **Okanda Hevage Jinadasa**, on 5 September 2003, was allegedly stopped by two Grama Arakshaka personnel, reportedly paramilitaries attached to the Okkampitiya police post. It is alleged that they beat him and brought him to the Okkampitiya police post. He was allegedly beaten with fists and poles and had his neck and testicles squeezed until reportedly he died. It is reported that police personnel took his corpse to the Okkampitiya government rural hospital, allegedly pretending that he was unconscious. The doctor who examined the body reportedly stated that he had died before being brought to the hospital. It is reported that the police said that he died as a result of falling from a chair. The Monaragala magistrate who reportedly held the inquiry on 7 September 2003 is said to have ordered the body be sent to Karapitiya (Galle) Teaching Hospital for an autopsy. The Judicial Medical Officer (JMO) who reportedly did the autopsy told the magistrate that he found injuries on the victim's body caused by blunt weapons, but that the victim's death was not due to these injuries. The JMO has reportedly reserved his decision on the cause of death till further investigation is completed. The Monaragala Assistant Superintendent of Police (ASP) has reportedly arrested two Grama Arakshaka personnel for questioning.

1496. **Kurupanawa Gamage Nihal**, from Katagoda, Udugama, was reportedly stopped on 17 August 2003 by six individuals in civilian clothes. One of the men, reportedly identified as a sub-inspector, allegedly beat Kurupanawa Gamage Nihal with a pole until it broke. He reportedly fell to the ground and was kicked by the sub-inspector all over his body, particularly the legs, face, and back. He was reportedly beaten on the cheeks until his left cheek began to bleed. The other officers accompanying the sub-inspector reportedly participated in those acts. Kurupanawa Gamage Nihal was then reportedly taken to the Udugama police station and transferred to the District Hospital afterwards, accompanied by three police officers. While the Kurupanawa was in the hospital, the above-mentioned sub-inspector and another officer reportedly forced him to put his thumbprint on a bottle and to sign some documents. It is also alleged that Kurupanawa Gamage Nihal was forced to leave the hospital on the next day and that two police officers brought him before a magistrate, who is alleged to have ordered his detention for 14 days. When he was reportedly taken to the detention prison at Galle, he was allegedly denied access to medical treatment. It is also reported that Kurupanawa Gamage Nihal was released on bail on 21 August 2003. It is believed that according to the medical report by the judicial officer, he sustained, among other things, a 3-centimetre horizontal laceration on the left side of the parietal region, and a 6-centimetre circular swelling on the left parietal region.

1497. **L.** aged 17, was reportedly arrested on suspicion of murder by Cheddikulam police on 28 August 2002. It is alleged that police officers, verbally abused, punched and kicked her at the time of arrest. It is alleged that police officers severely assaulted her brother in front of her while in custody. It is reported that L.'s mother, M. Shantbythevi, aged 38, was also arrested and that police personnel assaulted her

daughter and son in front of her. On 29 August 2002 the two women were reportedly brought before a magistrate.

1498. By the same letter, the Special Rapporteur advised that he received further information regarding **Nandini Herath**, whose case was included in a joint urgent appeal sent jointly on 13 September 2002, with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers, to which the Government responded by letter dated 10 October 2002 (see E/CN.4/2003/68/Add.1, paras. 1628 and 1629). It is reported that as of 2 June 2003, the case was still with the Attorney-General's Department and Nandini Herath's relatives were reportedly still being subjected to intimidation and harassment by members of the police force. Five police officers were reportedly transferred out of the Waraiyapola police station. It is reported that the officer-in-charge of Wariyapola police station, who is said to have been severely implicated in the torture practices and was charged, had not been transferred.

1499. **Saliva Padma Udava Kumara**, aged 26, was reportedly arrested by police officers from Wathegama police station in Kandy District around 4 p.m. on 26 August 2003. It is alleged that he was seriously ill-treated on 26 and 27 August. On 28 August 2003, Saliva Padma Udava Kamara was reportedly moved from the police station. His parents allegedly have not been able to learn of his whereabouts. It is reported they made the complaints to the National Human Rights Commission, the National Police Commission and other authorities.

1500. By letter dated 25 September 2003, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information concerning **Michael Colin David**, a 33-year-old resident of Trincomalee, and a member of the Eelam People's Democratic Party (EPDP). He was reportedly arrested in Trincomalee by the Criminal Investigations Department (CID) from Colombo on 20 July 2002. He was reportedly taken to the fourth floor of the Police Headquarters in Colombo, where the police allegedly asked him to sign a document in Sinhalese, a language he did not understand. It is alleged that, as he refused to sign the document, police officers forced him to lie on a bench, closed his mouth and poured water into his nostrils. The police officers allegedly threatened to inject him with a lethal substance if he did not sign the document. As a result, he reportedly signed it. He was reportedly taken before the Jaffna Magistrate on 2 August 2002, and complained that he had been severely assaulted by the police. The magistrate reportedly ordered that Michael Colin David undergo a medical examination by the Judicial Medical Officer (JMO) of the Jaffna Teaching Hospital and that the acting Superintendent of Jaffna prisons should provide maximum security to the suspect.

1501. By letter dated 25 September 2003, sent jointly with the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur advised the Government that he had received information concerning **W.A. Dhanapala Perera**, an astrologer from Panadura, Kalutara District. It is reported that on 15 September 2002, a sub-inspector and a sergeant, along with other police officers, came to his residence at and took him into to Kalutara police station. There he was reportedly stripped naked and his hands and wrists tied together with a

rope. His knees were also reportedly bent towards his chest, and his tied hands were placed below the bent knees. An iron bar was allegedly put through under his bent knees. It is reported that the ends of the bar were placed on two tables, thus suspending him above the ground. He was allegedly hit with batons and poles and accused of murdering the student. His mouth, nostrils and eyes were allegedly sprayed with chili powder. The Supreme Court reportedly held that the fundamental rights of W.A Dhanapala Perera had been violated by these officers, and ordered the perpetrators to pay compensation and costs. In addition, the court reportedly ordered that the Superintendent of Police and the Inspector General of Police (IGP) to take appropriate action against these officers.

1502. By letter dated 26 September 2003, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, and the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he had received information concerning **Sathasivam Rathykala**, a 22-year-old woman held in detention in Batticaloa prison since 23 July 2002. She was reportedly arrested on 24 November 2001 by four male police officer from the Methirigirya police station and taken to the office of the Criminal Investigation Department (CID) in Polonaruwa. At about midnight, she was reportedly put alone in a cell, where it is alleged that officers from the Methirigirya police station and the Polonaruwa CID threatened to shoot her with a gun, put chili powder all over her body, suspended her from the ceiling, slapped her ears and cheeks repeatedly, kicked her back, beat her with rope, and burned her all over with cigarettes. She was then allegedly raped by 12 police officers. On 26 November 2001, she was reportedly transferred to the Kaduruwella police station where she was held for one month. It is believed that she was presented to a magistrate on 29 November 2001, and reportedly remanded to the Anuradapura prison where she was held for another month before being transferred to Welikada prison for one month. She was reportedly transferred to Batticaloa prison on 23 July 2002 and granted bail on 19 September 2002. It is reported that she suffered acute mental trauma. The Batticaloa Judicial Medical Officer (JMO), who reportedly examined her on 30 August 2002 and reported to the Eastern High Court on 18 September 2003 that counselling and rehabilitation should be provided to Sathasivam Rathykala. The inquiry on this case has reportedly been postponed by the Eastern High Court.

1503. By letter dated 26 September 2003, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he had received information concerning the cases listed in the following paragraphs.

1504. **Indrani Silva**, was reportedly arrested on 25 September 2002 at 11.30 a.m. and taken to Vavuniya prison, along with four other individuals, in connection with the murder of her husband. She was allegedly punched, kicked and beaten with sticks. It is alleged that two police officers threatened to strip her naked if she did not tell the truth. That evening she was reportedly brought before a magistrate. On 26 September 2002, she was reportedly taken to hospital, but did not receive proper medical treatment. It is reported that due to her injuries she was unable to move one of her hands properly.

1505. **Siriyalatha Herath**, aged 39, was reportedly taken to the Wariyapola police station, Kurunegala district, on 8 March 2002 for questioning in connection with a

robbery at a local temple. She was allegedly kept in police custody for two days, during which she was allegedly sexually abused by the police.

1506. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002 for which no responses had been received.

Urgent appeal

1507. On 9 April 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **K. T. Kumarasinghe**, a 33-year-old member of the Sri Lankan army. He was reportedly arrested on 1 April 2003 at 10.40 p.m. on charges of theft, and taken to the Galagedara police station. He is believed to have been assaulted with belts and iron bars, and beaten severely on his feet, buttocks, and other parts of his body. It is reported that he was hung from a beam and beaten. It is alleged that on 4 April 2003, a lawyer visited the Galagedara police station to inquire about K. T. Kumarasinghe. However, the officer-in-charge reportedly told him that he had been transferred from the police station. The officer is believed to have admitted to having used torture on the detainee and to have claimed that torture was the only way to investigate the theft charges. In view of his alleged incommunicado detention in an unknown place, fears were expressed that K. T. Kumarasinghe may be at risk of torture or other forms of ill-treatment.

1508. By letter dated 4 December 2003, the Government reported that SIU had commenced investigations into the alleged assault. A statement of K.T. Kumarasinghe was recorded on 9 August 2003, in which he confirmed that his brother made a complaint to the Human Rights Commission of Sri Lanka on his arrest and alleged assault. However, he categorically stated that he does not want any legal action against any police officer. He also sought to withdraw the complaint made by his brother and stated that he will inform his brother, accordingly. Subsequently, on 10 August 2003, K.T. Kumarasinghe filed an affidavit to the Human Rights Commission of Sri Lanka to this effect. In the circumstances, no action will be taken to frame charges against Galagedara police on the alleged incident.

1509. On 16 October 2003, the Special Rapporteur sent an urgent appeal concerning **Lalith Rajapakse**. He was reportedly severely tortured during his detention at the Kandana police station in April 2002. An urgent appeal was sent in connection with this case on 16 May 2002, to the Government responded (E/CN.4/2003/68/Add.1, paras 1625 and 1627). A criminal action was reportedly filed under the 1994 Torture Act against a sub-inspector and other officers. The case is reportedly now pending before the Negambo Magistrates Court. A case is also reportedly pending before the Supreme Court and is scheduled to be heard on 23 October 2003. The above-mentioned sub-inspector reportedly continues in his post as officer-in-charge of the Kandana police station. It is alleged that Lalith Rajapakse, his relatives as well as several persons from human rights groups who have assisted him have been pressured and intimidated into not proceeding with the cases.

1510. On 30 October 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary execution and the

Special Representative of the Secretary-General on human rights defenders, concerning **B. G. C. B. J.**, aged 17, and his family, whose case was included in an allegation letter sent by the Special Rapporteur on the question of torture on 25 September 2003. **B. G. C. B. J.**'s mother reportedly received death threats on 29 October 2003 by a group of police officers, who intercepted her as she was going to the Magistrates Court where her son's case was being heard. It is alleged that the policemen also threatened to kill **B. G. C. B. J.**, who was said to be on his way to attend the proceedings of the United Nations Human Rights Committee.

1511. By letter dated 1 December 2003, the Government reported that SIU conducted an investigation into the allegation. SIU recorded statements of **B. G. C. B. J.** and others who were taken into custody along with him, and of 20 witnesses. The Judicial Medical Officer (JMO) of Kandy Hospital, who examined **B. G. C. B. J.**, stated to SIU that the patient had grievous injuries caused by a blunt weapon. This was confirmed by another JMO. SIU has almost completed its investigations, at the conclusion of which it would forward an extract of the investigation notes to the Attorney-General's Department for further action. An inquiry by the regional office of the National Human Rights Commission in Kandy, came to the finding that the complaint was unfounded. Representations were made on behalf of the victim, and the Chairperson of the National Human Rights Commission, has ordered a fresh inquiry and this inquiry, which is now in progress.

1512. On 6 November 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, concerning **H. L. S. K.**, aged 16. On 12 September 2003 it is reported that he was questioned for several hours about a theft at his employer's. On 13 September 2003, at Rathgama police station, **H. L. S. K.** was reportedly kicked, hung up on a tree and then dropped on to the ground by the sub-inspector. He was reportedly taken to a cell where he was handcuffed to an iron railing on a bed. He was reportedly given some food but no water. On 14 September 2003, he was reportedly taken to another small building where, according to the information received, he was forced to remove his clothes and chili powder was applied on his genitals. It is alleged that the police subsequently wrapped his head and face with his T-shirt and then repeatedly poured water on his face, which allegedly caused him to nearly suffocate. It is alleged that he was subsequently forced to face a wall and beaten on the back, buttocks and legs with wooden sticks. According to the information received, he was later taken by the police to a cemetery in front of the navy camp, Boossa, ordered to dig a grave, and was immersed in a water pit. Upon being returned to the police station one hour and half later, he was allegedly subjected to further ill-treatment. On 15 September 2003 he was allegedly assaulted again. On the evening of that day, he was allegedly taken to a beach, ordered to run and threatened with being shot. He was reportedly beaten again with sticks. His mother was reportedly allowed to see him for the first time since his arrest on 17 September 2003. It is reported that he could hardly walk, he had a black eye, swollen soles and wounds to the elbows and knees. The request of his mother for medical assistance for him was reportedly denied. Later on that day, he was allegedly beaten and kicked again. **H. L. S. K.** was reportedly produced before a court on 19 September 2003 and sent to the Kithulampitiya Remand Home. He was transferred to the Karapitiya Teaching Hospital on 21 September 2003. Upon release on bail after being produced before the Galle Magistrate's Court on 24 September 2003, he and his family reportedly filed complaints to the National Human Rights Commission and the

Supreme Court. The Supreme Court reportedly issued leave to proceed in a fundamental rights application and ordered the National Police Commission (NPC) to conduct a disciplinary inquiry into the case. It is reported that since then, he and his family have been receiving death threats by the alleged perpetrators. It is reported that officers alleged to be involved in the above-described treatment continue to serve at the same police station. Fears were expressed for the life and physical integrity of H. L. S. K. and his family if no adequate measures were taken to ensure their safety.

Follow-up to previously transmitted communications

1513. By letter dated 1 December 2003, the Government provided further information concerning a letter sent on 2 September 2002 (E/CN.4/2003/68/Add.1, para. 1487).

1514. Concerning **Mahendranathan Shankar** (ibid., para. 1488), the officers of the Special Investigations Unit (SIU), the specialized unit of the Sri Lanka Police, established to investigate allegations of torture, visited Jaffna on 7 April 2003 to record a statement of the alleged victim. According to his statement, he was arrested by army personnel on 4 July 2001 and was taken to Uralu army camp where he was detained for six days. He was then handed over to Kankesanthurai police and detained for about a month and was further remanded for about nine months on a court order. He filed an application to the Supreme Court and was released subsequently. He also made a complaint to the National Human Rights Commission with a view to getting compensation. However, the alleged victim stated that he does not want further investigations into this incident to be conducted. The alleged victim has been requested to produce an affidavit to this effect in order to terminate investigations. He is yet to file his affidavit. If his request to withdraw is proven by an affidavit, then SIU will have no alternative but to terminate the investigation. As at present, investigations are continuing.

1515. Concerning **Krishnasamy Thiviyan** (ibid., para. 1490), SIU recorded a statement on the alleged incident by Krishnasamy Thiviyan on 9 April 2003. SIU recorded a statement of a doctor of the District Hospital Thelippalai, who stated that she examined Krishnasamy Thiviyan on 15 July 2001 and that she observed bruises on the lower lip and on the right cheek, which could have been about a week old and could have been caused due to an assault or a fall. Krishnasamy Thiviyan complained to the doctor that he was assaulted by army personnel but he did not mention any names. Statements of the army unit which arrested Krishnasamy Thiviyan said that when he was arrested he fell from a bicycle which caused the bruise on the lower lip, the alleged perpetrators were unknown; that the Vice Chancellor and students of the Jaffna University visited him, and he was handed over to the Kankasanthurai police station. According to the senior police officer there, he did not complain of any assault, but admitted that a bruise was caused as a result of falling from the bicycle. The Kankasanthurai police conducted further investigations and uncovered information that Krishnasamy Thiviyan was a member of LTTE. After its investigation, SIU on 15 September 2003 forwarded the investigation notes to the Attorney-General's Department for advice on further action. The matter is receiving the attention of the Attorney-General.

1516. Concerning **Alagaiah Murugathas** (ibid., para. 1491), according to SIU, he stated that he was arrested by the Thirukovil Special Task Force (STF) on 14 June 2001 and subjected to acts of torture. On 4 July 2001 he was examined by the District Medical Officer of the Thirukovil Hospital, who reported that there were no external wounds. It was revealed that he was handed over to Amparai Police Special Unit on 1 August 2001 and detained for further 90 days on detention orders under the Emergency Regulations. He was released on 15 October 2001 on the advice of the Attorney General that the evidence against him was insufficient to indict him. The officers of the Thirukovil STF stated in their statements that Alagaiah Murugathas was taken into custody on 3 July 2001 by STF on information received from an informant. He was handed over to Amparai Police Special Unit on the following day. They did not know what happened to him thereafter. The officers of STF stated that they did not beat the suspect while in their custody. After the investigations, SIU has forwarded the investigation notes to the Attorney-General's Department on 24 September 2003, seeking advice on further action. Such advice of the Attorney-General's Department is awaited.

1517. Concerning **Ponnappillai Sivanasan** (ibid., para. 1493), according to SIU, after various attempts it has been unable to trace the victim for a statement, and the proceedings of the investigation have been suspended. To successfully prosecute the alleged perpetrator it is essential that the victim gives evidence recounting the details of his arrest, detention and torture before the trial Court. The Government reported that assistance of the Special Rapporteur in locating Ponnappillai Sivanasan and obtaining a statement was sought.

1518. Concerning **Sivalingam Sathiskumar** (ibid., para. 1495), according to the SIU investigation the medical superintendent of Ampara Hospital stated that Sivalingam Sathiskumar was produced before him on 17 May 2001 by STF. He discovered external injuries on the body of the alleged victim. These could have been caused by a blunt weapon or as a result of a fall when running. He was again examined on 13 and 25 of June 2001 and 7 and 16 July 2001. He did not have external or internal injuries at that time. According to the STF officers who arrested Sivalingam Sathiskumar, they denied that he was subjected to torture. Officers of Ampare Counter Subversive Unit, who took over Sivalingam Sathiskumar from the STF, denied any assaults. After completing investigations, SIU forwarded an extract of the investigation notes to the Attorney-General's Department for advice. The Attorney-General's Department decided not to take legal action against STF personnel, as the alleged victim had not identified which officer had assaulted him. However, the Attorney-General's Department decided to indict the suspected officers of CSU under the Torture Act. Indictments will be sent to the relevant High Court in due course.

1519. Concerning **Thangarasa Sathan** (ibid., para. 1497), according to the SIU investigation, Thangarasa Sathan filed a fundamental rights violation case in the Supreme Court of Sri Lanka and it decided that the alleged victim's fundamental rights had been violated. The first respondent was ordered to pay Sri Lanka rupees 5,000 as compensation. The Police Department subsequently initiated a disciplinary inquiry against the respondents. Notwithstanding, SIU collected statements from Thangarasa Sathan, including another person who was taken into custody along with him on 5 March to a police post. Thangarasa Sathan stated that he was subject to

acts of torture at the police post. He later received treatment at Vavuniya Hospital. The police personnel denied that any of them assaulted the suspect while in their custody. The Medical Officer of the Vavuniya Hospital, who examined Thangarasa Sathan on 27 March 2001 stated in his statement that there were the wounds could have been inflicted around the beginning of March. SIU on 18 September 2003 forwarded the investigation notes to the Attorney-General's Department seeking advice on further action. The advice of the Attorney-General's Department is awaited.

1520. Concerning **R. Wigneshwaran** (ibid., para. 1499), according to SIU, after various attempts it has been unable to trace the victim for a statement, and the proceedings of the investigation have been suspended. To successfully prosecute the alleged perpetrator, it is essential that the victim gives evidence recounting the details of his arrest, detention and torture before the trial court. The Government reported that assistance of the Special Rapporteur in locating R. Wigneshwaran and obtaining a statement was sought.

1521. Concerning **L. P. Maithreepala Senadira** (ibid., para. 1501), according to SIU's investigation, the alleged victim stated that he made a complaint to the National Human Rights Commission, received Sri Lanka rupees 15,000 as compensation from the police and agreed to settle the case. L. P. Maithreepala Senadira stated to SIU that he did not want further investigations or legal action against the police. In the statement to SIU, the police had denied there was a settlement as indicated by L.P. Maithreepala Senadira. SIU after its investigations, forwarded extracts of investigation notes to the Attorney-General's Department for advice, which decided to indict the two suspected police officers under the Torture Act. However, when the case was called at Anuradhapura High Court on 16 September 2003, it was withdrawn by agreement of the two parties; as the victim stated, they had already come to a settlement before the Human Rights Commission and he did not desire any further action.

1522. Concerning **Nadarajah Thiruchelvan** (ibid., para. 1503), the Government informed that the Criminal Investigation Department initiated investigations into this allegation on 25 April 2001. The records of the Terrorism Investigation Department (TID) indicated that a person named Nadarajah Thiruchelvam had not been arrested by TID. In the circumstances, further investigations cannot be continued unless further details were provided.

1523. Concerning **Sarojinidevi Thawarajah** (ibid., para. 1505), SIU commenced investigations on the alleged incident, however the alleged victim has subsequently withdrawn the complaint and stated that she does not wish to pursue further action against the TID officers concerned. She has submitted an affidavit to this effect. On the basis of the alleged victim's withdrawal of the complaint, the investigations were terminated.

1524. Concerning **Nadarajah Rasalingam** (ibid., para. 1507), SIU conducted an investigation into the alleged incident and sought the advice of the Attorney-General's Department on further action. The Attorney-General's Department, after examining the investigative material, decided to indict the suspected police officer under the Torture Act. Indictments were sent to Ampara High Courts on 15 September 2003, and the case is pending.

1525. Concerning **Muniyandi Selvarajah** (ibid., para. 1509), the Government reported that there was a fundamental rights violation case in the Supreme Court of Sri Lanka where a number of police officers were found guilty, in this regard. They were also ordered to pay Sri Lanka rupees 5,000 as legal charges and compensation. When statements of the suspected police officers were recorded they mentioned that some detainees filed affidavits claiming that Muniyandi Selvarajah and some other suspects inflicted wounds on themselves in order to get compensation from the officers of CSU. Four such detainees have confirmed this in their statements. After completing its investigation, SIU has forwarded the investigation notes to the Attorney-General's Department, for advice on further action. The Attorney-General Department after examining the investigation material, decided to indict the suspected police. They will be indicted in the High Court shortly.

1526. Concerning **Anthonipillai Reginold** (ibid., para. 1511), according to SIU's investigations the alleged victim said that he was subjected to torture by the officers of the Amparai CSU after being taken into custody. He was also detained at the Boosa detention camp, and Badula and Baticaloa prisons, until his release on 10 October 2002. The alleged victim was produced before District Medical Officer of the Amparai Hospital on 2 October 2000 while in custody. The doctor indicated that he had not complained of any illness and no injuries were found upon examination. He was again examined by the same medical officer on 7 and 8 October 2000 but there were no complaints of illness or beatings by the police. When examined by the District Medical Officer of the Karapitiya Hospital on 6 June 2002, while being detained at the Boossa Detention Camp, the medical officer noticed 13 scars in his body. On that occasion he told the medical officer of his beatings. The medical officer has observed that the injuries could be at least six months old. One was a grievous injury while the rest were not. Anthonipillai Reginold subsequently filed a fundamental rights violation against the police officers, and the Supreme Court ordered the respondents to pay Sri Lanka rupees 5,000 as compensation and the Government to pay legal charges. After completing its investigation, SIU forwarded the investigation notes to the Attorney-General's Department on 19 May 2003 for advice on further action. Such advice is awaited.

1527. Concerning **Muruthiah Yogarajah** (ibid., para. 1513), according to SIU, after various attempts it has been unable to trace the victim for a statement, and the proceedings of the investigation have been suspended. To successfully prosecute the alleged perpetrator, it is essential that the victim give evidence recounting the details of his arrest, detention and torture before the trial court. The Government informed that assistance of the Special Rapporteur in locating Muruthiah Yogarajah and obtaining a statement was sought.

1528. Concerning **Murugesupillai Santhanasara** (ibid., para. 1515), according to SIU, after various attempts it has been unable to trace the victim for a statement, and the proceedings of the investigation have been suspended. To successfully prosecute the alleged perpetrator, it is essential that the victim give evidence recounting the details of his arrest, detention and torture before the trial court. The Government reported that assistance of the Special Rapporteur in locating Murugesupillai Santhanasara and obtaining a statement was sought.

1529. Concerning **Anthonipillai Jayakanthan** (ibid., para. 1517), SIU has indicated that in the course of its investigations the alleged victim has stated that he

did not complain of assault, but rather his mother made the complaint. The alleged victim stated that, even though he was beaten by officers of the Kirulapana police, he did not suffer serious injuries and also he could not identify the officers. As he was planning to go abroad, he did not want any inquiry. As investigation cannot be conducted without the cooperation of the alleged victim, SIU has terminated the investigation.

1530. Concerning **Selvarajah Thamilselvan** (ibid., para. 1519), SIU reported that it commenced investigations into the alleged incident of torture and recorded a statement from Selvarajah Thamilselvan on 17 June 2003. He stated that he was taken into custody on 22 June 2000 by officers of TID, and subsequently tortured. After being detained at TID for a few months, he was produced before Hultsdorf Magistrate Court on 12 February 2001 and was further detained first at Welikada Prison, and later at Boossa Detention Camp. During that time, he made a complaint to the National Human Rights Commission, and by a decision of the Supreme Court, he was released on 21 September 2001. However, when he made the statements to SIU, Selvarajah Thamilselvan categorically mentioned that he did not want any lawsuits against the TID officers concerned. He has produced an affidavit, authenticated by the Divisional Secretary of the area to this effect.

1531. Concerning **Subramaniam Kannan** (ibid., para. 1521), the Attorney-General's Department directed the Criminal Investigation Department (CID) to conduct an investigation into this incident. CID recorded a statement from the alleged victim. However, he stated that he did not know the names of the persons who took him into custody or perpetrated torture on him. He further stated that he could not identify them if he sees them again. In the circumstances, the Attorney-General's Department has advised CID that it is not possible to initiate a criminal prosecution on this alleged act of torture.

1532. Concerning **Thushan Silva** (ibid., para. 1523), the Criminal Investigation Department on 22 July 2002 commenced a criminal investigation into the complaint and after completing its investigations forwarded extracts of its investigation notes to the Attorney-General's Department for a decision. The Attorney-General has decided to institute indictments against accused police officers. Indictments will be filed in the relevant court shortly.

1533. Concerning **Nagaraja Vamaneswaran** (ibid., para. 1525), SIU investigations have revealed that it has not received any evidence against any army or police officers. It has forwarded the investigation notes to the Attorney-General's Department on 15 September 2003 seeking advice on further action. The Attorney-General, after examining the investigation material, decided on 4 November 2003 that there is no substantial evidence to initiate criminal proceedings.

1534. Concerning **a man known as "old father"** (ibid., para. 1527), SIU indicated that the information provided is insufficient to commence an investigation and to take further action. The Government of Sri Lanka cannot undertake a criminal prosecution based on the facts as recounted in the communication, and would welcome any information from the Special Rapporteur on details of the incident.

1535. Concerning **Sivaguru Ravaneethan** (ibid., para. 1528), SIU indicated that the individual is now in France and it is making efforts to contact him to obtain a statement on the alleged torture incident.

1536. Concerning **Mohamed Farik Sanoos** (ibid., para. 1530), according to SIU, after various attempts it has been unable to trace the victim for a statement, and the proceedings of the investigation have been suspended. To successfully prosecute the alleged perpetrator it is essential that the victim give evidence recounting the details of his arrest, detention and torture before the trial court. The Government reported that the assistance of the Special Rapporteur in locating Mohamed Farik Sanoos and obtaining a statement was sought.

1537. Concerning **Ratnam Mahendran** (ibid., para. 1532), SIU conducted investigations into the incident, and in his statement the alleged victim said that while he was at Vavuniya town on 23 May 2000 he was taken to Kadiyiruppu Junction army camp in a three-wheeled vehicle, blindfolded, and beaten at Kadiyiruppu Junction and Joseph army camps, and released on 28 May 2000. He has not identified the persons who beat him. The doctor who examined him following his release confirmed that he obtained treatment for wounds at Vavuniya Family Rehabilitation Centre. The army headquarters in Colombo informed SIU that neither the Vavuniya base nor its units have any records of an arrest of this person. There are no records of an officer called Corporal Rajapakse, either. After the investigations, SIU sought the advice of the Attorney-General's Department on further action. The Attorney-General's Department has instructed that there cannot be any further action on this incident due to lack of evidence.

1538. Concerning **Kathiravelu Jegathas** (ibid., para. 1534), according to SIU, after various attempts it has been unable to trace the victim for a statement, and the proceedings of the investigation have been suspended. To successfully prosecute the alleged perpetrator it is essential that the victim give evidence recounting the details of his arrest, detention and torture before the trial court. The Government reported that the assistance of the Special Rapporteur in locating Kathiravelu Jegathas and obtaining a statement was sought.

1539. Concerning **Navaratnam Sureshkaren** (ibid., para. 1536), according to SIU, after various attempts it has been unable to trace the victim for a statement, and the proceedings of the investigation have been suspended. To successfully prosecute the alleged perpetrator it is essential that the victim give evidence recounting the details of his arrest, detention and torture before the trial court. The Government reported that the assistance of the Special Rapporteur in locating Navaratnam Sureshkaren and obtaining a statement was sought.

1540. Concerning **Balachandralal Piratheepan** (ibid., para. 1538), the SIU recorded a statement of the alleged victim on 7 April 2003, where he stated that he does not want further investigations to be conducted and requested his complaint be withdrawn. Subsequently, the alleged victim has been requested to produce an affidavit to this effect. SIU has also requested both the Divisional Secretary and the Senior Superintendent of Jaffna to obtain an affidavit from the alleged victim. He is yet to file his affidavit. If his request to withdraw is proven by an affidavit and it is confirmed by

the Divisional Secretary that he is doing so of his own free will, then SIU will have no alternative but to terminate the investigation. At present, investigations are continuing.

1541. Concerning **Sinnathurai Vijayaruban** (ibid., para. 1540), SIU recorded the statement on 27 September 2002 of an army captain, who confirmed that a team led by him took Sinnathurai Vijayaruban to Uralu Camp and detained him for six days on detention orders. Captain Kapugamage denied that the alleged victim was subjected to torture while under their detention. He also stated that there were no army personnel at Uralu Camp with the names identified by the alleged victim. The alleged victim was examined by the Judicial Medical Officer (JMO) of Jaffna Hospital on 30 May 2001. SIU is waiting to record the statement of JMO to continue its investigations

1542. Concerning **Selvarasah Nandakumar** (ibid., para. 1542), in his statement, the alleged victim said that he was taken from his home by about 9 or 10 officers to Uralu army camp. He stated he was blindfolded and assaulted there and later subjected to torture at the Nirveli camp. After three days, he was handed over to his mother and was asked not to go to the hospital or to ICRC, and asked to report to the camp every five days. He stated that even though he was blindfolded he recognized the perpetrators' voices. On 3 February 2000, when he was at home, six army personnel came to his house and asked him to come to the Uralu camp, but he could not say whether they were the same personnel who arrested him earlier. Representatives of ICRC visited him when he was detained in the camp but he did not inform them about the assault. After three days he was handed over to his mother and the officers issued a certificate to his mother about his arrest. They also obtained a letter from the victim saying that he was not assaulted. Six officers came to his house on 2 May 2002 and took him to the Uralu camp. The officers who came earlier to arrest him were among them. They kept him there for four days and continued to assault him. SIU requested the suspected army officers to come to SIU on 9 September 2003 to record statements but they did not report on that date. SIU is waiting for the JMO report and the suspected army officers to come and record their statements and to continue investigations.

1543. Concerning **Marakandu Srivasagam** (ibid., para. 1544), according to SIU, after various attempts it has been unable to trace the victim for a statement, and the proceedings of the investigation have been suspended. To successfully prosecute the alleged perpetrator, it is essential that the victim give evidence recounting the details of his arrest, detention and torture before the trial court. The Government reported that the assistance of the Special Rapporteur in locating Marakandu Srivasagam and obtaining a statement was sought.

1544. Concerning **Rasaiah Baleshwaran** (ibid., para. 1546), according to SIU, after various attempts it has been unable to trace the victim for a statement, and the proceedings of the investigation have been suspended. To successfully prosecute the alleged perpetrator, it is essential that the victim give evidence recounting the details of his arrest, detention and torture before the trial Court. The Government reported that the assistance of the Special Rapporteur in locating Rasaiah Baleshwaran and obtaining a statement was sought.

1545. Concerning **Periyathambi Kuanathan** (ibid., para. 1548), according to SIU, in his statement the alleged victim stated that he was arrested by army officers on suspicion of being a LTTE member. He was taken to Varani army camp and detained for four days. He was subjected to torture during the interrogation. After four days he was handed over to Kankasanthurai police and later he was treated at Thelippalai hospital for wounds, before being produced in court and further remanded. The doctor who examined the alleged victim, on 26 January 2000 at Thelippalai hospital, confirmed that his injuries could be due to beatings by the army personnel as alleged. The police officers attached to the Terrorism Investigation Unit of the Kankasanthurai police, who took over the alleged victim from the army on 25 January 2000 have said in their statement that they did not notice any injuries at the time of assuming custody nor had the victim stated that he was beaten. SIU recorded statements of three army personnel identified by the alleged victim as the alleged perpetrators. The fourth person has subsequently left the army and his whereabouts are unknown. SIU forwarded the investigation notes to the Attorney-General's Department on 16 September 2003 seeking advice on further action. The advice of the Attorney-General's Department is awaited.

1546. Concerning **Stephen Pius Romulus** (ibid., para. 1550), according to SIU, after various attempts it has been unable to trace the victim for a statement, and the proceedings of the investigation have been suspended. To successfully prosecute the alleged perpetrator, it is essential that the victim give evidence recounting the details of his arrest, detention and torture before the trial court. The Government reorted that the assistance of the Special Rapporteur in locating Stephen Pius Romulus and obtaining a statement was sought.

1547. Concerning **Kadiravel Kamalarasan** (ibid., para. 1552), he presented himself at SIU office on 10 April 2003, and stated that he was unwilling to give a statement on the arrest. Therefore, SIU has terminated investigations.

1548. Concerning **B. Manivannan and Babu** (ibid., para. 1554), the Government reported that there is no recorded evidence of any such incident having taken place in January 2000, and that the information supplied by the Special Rapporteur is insufficient to initiate an investigation.

1549. Concerning **Balasubramaniam Subaharan** (ibid., para. 1555), the Criminal Investigation Department initiated an investigation into this allegation. He responded to a request by CID for a statement, by letter dated 7 January 2002, that through Supreme Court case No 426/2000, he had been compensated and he does not want any further investigations. In view of subsequent unsuccessful attempts to obtain a statement, the Attorney-General advised to conclude the investigation, as it was apparent that the complainant was no longer interested in pursuing his complaint of torture.

1550. Concerning **Rajaratnam Thevaratnam** (ibid., para. 1557), he stated to SIU that he was arrested by the personnel of the Kalmunai Special Task Force (STF) on 11 October 1999, and subjected to torture by them. However, Rajaratnam Thevaratnam had not identified the perpetrators by name, and has yet to respond to this request. SIU is unable to continue its investigations until his second statement is provided to them, and unless he can identify the perpetrators.

1551. Concerning **Ratnam Sivakumar** (ibid., para. 1559), SIU commenced investigations into this alleged incident and recorded a statement from Ratnam Sivakumar on 7 April 2003. He requested his case be withdrawn, and produced an affidavit dated 5 August 2003 to this effect, stating that he withdraws all the complaints made by him for his own personal reasons.

1552. Concerning **four young fishermen** (ibid., para. 1561), SIU conducted an investigation into the incident and recorded statements of four witnesses, as well as the suspected police officers. After completing its investigations, SIU sought the advice of the Attorney-General's Department, which decided to indict the two police officers under the Torture Act. They were produced before the Negombo Magistrate and were released on bail. They were ordered by the Magistrate to appear in High Court when noticed.

1553. Concerning **Kumaravel Perinbanathan** (ibid., para. 1563), SIU conducted investigations into the incident. According to the alleged victim's statement given to SIU, he was arrested by police officers on 25 June 2001 and taken to Koddaveli Police Post. There, he was assaulted. He received treatment at Mannar and Vavuniya Hospitals as a result of the assault. He was later discharged by Mannar Magistrate. The District Medical Officer, who examined the alleged victim, reported that Kumaravel Perinbanathan received treatment from 28 June to 7 July 2001 for injuries which were not grievous. The police officers of the Koddaveli police post, in their statements, denied the assault. SIU, after its investigation, forwarded the investigation notes to the Attorney-General's Department for advice, which is awaited.

1554. Concerning **Periyakarupan Tharshaman** (ibid., para. 1565), according to the SIU, after various attempts it has been unable to trace the victim for a statement, and the proceedings of the investigation have been suspended. To successfully prosecute the alleged perpetrator it is essential that the victim give evidence recounting the details of his arrest, detention and torture before the trial court. The Government reported that the assistance of the Special Rapporteur in locating Periyakarupan Tharshaman and obtaining a statement was sought.

1555. Concerning **Kanthappan Sarojini** (ibid., para. 1567), CID commenced an investigation and recorded statements of the alleged victim and the Assistant Judicial Medical Officer (AJMO) of Colombo. In her statement to CID, Kanthappan Sarojini did not make any allegation of rape, but of sexual harassment. The AJMO had not observed any evidence of rape, but two scars on her body which may have been caused by an assault with a blunt weapon. She was also examined at least on nine occasions by the District Medical Officer of the Amparai Hospital and again by a doctor of the Badulla hospital while she was under remand custody in Badulla prison. She had not complained of rape or sexual harassment to the medical officers on those occasions. CID, after completion of its investigations, forwarded extracts of investigation notes to the Attorney-General's Department. After perusal of the material, the Attorney-General's Department concluded on 28 October 2003 that it was not possible to institute criminal proceedings against anybody due to the lack of available evidence and the inconsistency of the statements made by the alleged victim.

1556. Concerning **Lalith Rajapakse** (ibid., para. 1625), CID established that he had been arrested on 19 April 2002 by the Kandana police, regarding a case of housebreaking and theft. The victim in his statement said that he was arrested by four officers of the Kandana police on the night of 18 April 2002 and that they assaulted him at the time of arrest, as well as after being taken to the police station. He was put in the police cell where he became unconscious and when he regained consciousness he found himself at the Colombo National Hospital. Statements of several other persons who were in remand together with the victim on the same day have been recorded. The Assistant Judicial Medical Officer of the Colombo National Hospital, who examined the victim, reported that there were 10 injuries caused by a blunt weapon on his body. After completing the investigations, CID forwarded extracts to the Attorney-General's Department for advice. The Attorney-General's Department has decided to indict the suspected police officers and indictments were filed in the Negombo High Court.

1557. Concerning **W. Gerard Mervyn Perera** (ibid., para. 1571), in his statement to CID, he said that he was arrested by police officers in civilian clothes on 3 June 2002 at Gonagaha and was taken to the Wattala police, where he was questioned about a murder, then assaulted. The Assistant Judicial Medical Officer of Colombo, who examined the victim, confirmed that he had sustained injuries. The suspected police officers in their statements said that the alleged victim fell down when attempting to escape arrest, and they had to apprehend him using minimum force. They denied the allegation of torture. After completing investigations, CID forwarded extracts to the Attorney-General's Department for advice, which decided to indict the suspected police officers under the Torture Act. They will be indicted shortly at the Negombo High Court.

1558. Concerning **Nimal Silva Gunaratne** (ibid., para. 1573), he stated to CID that he was arrested on 8 July 2000 by the Rapid Expansion Unit (REU) of the Panadura police on suspicion of a killing, and subsequently subjected to torture. The witnesses who were present at the time of his arrest have confirmed that he was beaten by the police officers. Two eye surgeons who examined the alleged victim have reported that the injury to his right eye may have been caused by a blunt weapon or as a result of a fall. The Judicial Medical Officer who examined him on 10 November 2000 reported that he had injuries not older than six months on his body. CID forwarded extracts of its investigation notes to the Attorney-General's-Department for a decision, which is awaited.

1559. Concerning **Kodituwakku Arachchige Samarasinghe** (ibid., para. 1575), SIU recorded statements of the victim, some witnesses and the suspected police officers. According to the victim, two police officers visited his home on 10 November 2001 in relation to a murder investigation, and he was beaten over the following days by the sub-inspector. In his statement, the sub-inspector said no one by the name of Kodituwakku Arachchige Samarasinghe was asked to report to the police to record a statement on 11 November 2001 or subjected to torture thereafter. He stated that the police, at the request of his mother, assisted to take to the above-named to the Mental Hospital, which refused to accept the patient, who was then admitted to Nagoda Hospital. It was stated that, due to an oversight, this incident could not be recorded in the police books. Two other police officers have also made similar statements. After

completing its investigation, SIU has forwarded the investigation notes to the Attorney-General's Department for advice on further action, which is awaited.

1560. Concerning **Hewage Ranjani Rupika** (ibid., para. 1577), according to SIU, she said in her statement that she was arrested on 14 September 2001 on suspicion of possessing illicit liquor by officers of the Matugama police, and was assaulted by the inspector. Hewage Ranjani Rupika, who was pregnant at the time, lost her child due to the assault and had to obtain treatment from 15 to 18 September 2001 and again from 23 to 25 September 2003. The inspector, in his statement, denied any assault of the alleged victim by him. After completing investigations, SIU forwarded an extract of investigation notes to the Attorney-General's Department for advice, which decided to indict Inspector S.A. Samarasinghe under the Torture Act. Subsequently, indictments were filed in Kalutara High Court and the case was taken up on 15 July 2003. He was released on bail and the next date of the trial is 17 December 2003.

1561. Concerning **H. Fonseka** (ibid., para. 1579), according to the investigations of SIU, the statements by the alleged victim to various authorities are inconsistent and insufficient to prove beyond doubt that the suspected police officer assaulted him. Nevertheless, SIU forwarded an extract of the investigation notes to the Attorney-General's Department for advice, which is awaited.

1562. Concerning **Rajapakse Pathirage Kavinda** (ibid., para. 1581), SIU conducted investigations into the incident and sought the advice of the Attorney-General's Department, which advised it to indict the suspected police officers. They will be indicted in the High Court shortly.

1563. Concerning **Amarasinhage Morris Elmo de Silva** (ibid., para. 1583), SIU, after recording the statements of the alleged victim, some witnesses and the suspected police officers, sought the advice of the Attorney-General's Department on whether it was possible to initiate legal action against the suspected police officers. A response is awaited.

1564. Concerning **Namal Fernando** (ibid., para. 1585), SIU forwarded an extract of the investigation notes to the Attorney-General's Department for advice, which decided to indict the suspected police officers. They were ordered to appear in Chilaw High Court on 22 July 2003. Indictments were served on that day and they were released on bail. The next trial date of the case in High Court is 19 January 2004.

1565. Concerning **Ajith Navaratne Bandara** (ibid., para. 1587), CID recorded statements of the alleged victim as well as the suspected police officers. He stated that, on 2 May 2001, he was assaulted by two persons in civilian clothes and taken to Keselwatte police station. There, he was beaten and an impression of his thumb was taken. He was brought before the magistrate on a charge of possessing heroine and was remanded. After he was released on bail, he received treatment at the hospital on 4 May 2001. The suspected police officers stated that, on a routine patrol on 2 May 2001 in Keselwatte area, they searched a person by the name of Ajith Navaratne Bandara, who behaved in a suspicious manner, and they recovered 80 milligrams of heroine in his possession. He was then taken into custody and

brought to the police station. He was produced before the Panadura Magistrate on the same day and he further remanded him. The police officers who arrested him denied any assault at the time of the arrest or while in police custody. After completing the investigations, CID forwarded extracts of investigation notes to the Attorney-General's Department for advice, which is awaited.

1566. Concerning **Vijitha Dissanayake** (ibid., para. 1589), CID's investigations revealed that the Judicial Medical Officer (JMO) at Nagoda hospital, who examined Vijitha Dissanayake on 22 March, 2001, had reported that the burn marks and the cut injuries of the forefinger of the left hand were self-inflicted. Despite repeated requests by CID to the victim to appear before the consultant JMO Colombo in order to examine the complainant along with the medical report, he failed to appear. In the circumstances, pursuing further action on this matter became impossible. The file was forwarded to the Attorney-General on 25 July 2002, who is to file an action against Vijitha Siriwardena for making a false complaint.

1567. Concerning **Amarasinghe Arachchige Maithripala** (ibid., para. 1591), CID conducted investigations into the incident and sought the advice of the Attorney-General's Department on 4 March 2003. The Judicial Medical Officer (JMO), who conducted the post-mortem, reported that it was a natural death caused by the enlargement of the liver and related illnesses. A police departmental inquiry was conducted in order to ascertain if there was any lapse on the part of the police. The only available evidence that Amarasinghe Arachchige Maithripala was beaten is the statement of deceased's mother, which was nearly 22 months after the incident. However, she has not identified any officer. The Attorney-General, having perused the investigation notes, has decided that there is no evidence to prove that Amarasinghe Arachchige Maithripala died as a result of anything other than natural causes.

1568. Concerning **Bandula Rajapakse** (ibid., para. 1593), an identification parade was held on 11 September 2002 at the Katuwana Mobile Magistrate Court. Out of 16 police officers, the victims identified four officers as assailants. Further investigations were conducted by CID and, after concluding, the investigations' extracts were forwarded to the Attorney-General's Department for a decision. It decided to institute criminal proceedings against the suspected police officers. Subsequently, indictments were filed in the Negombo High Court. The date of the trial has not yet been fixed, but the trial will be conducted in due cause.

1569. Concerning **Angeline Roshana Micheal** (ibid., para. 1594), CID recorded the statement of the alleged victim on 20 March 2002 in which she stated that she was arrested by an inspector and constable of Narahenpita police on 3 December 2000 at her home on suspicion of theft of a wristwatch. She was taken to the police station and subjected to torture and was produced before the Magistrate's Court at Hultsdorf on 5 December 2000. CID investigations revealed that the victim was not been produced before a magistrate within 24 hours as stipulated by law. The victim informed the magistrate of the assault by police officers who ordered that she be examined by a medical officer. The Colombo Judicial Medical Officer who examined her reported that she sustained non-grievous injuries that may be attributed to beating. Other suspects detained at the Narahenpita police station on 3 and 4 December 2000 also confirmed that she was beaten. CID forwarded the investigation notes to the Attorney-General's Department on 11 April 2002, which decided on 4 June 2002 to indict the two

suspected police officers under the Torture Act. The Supreme Court on 2 August 2002 ordered a sum of Sri Lanka rupees 30,000 as compensation, with cost to be paid personally to the victim by the inspector. The constable was produced before the Magistrate's Court of Hultsdorf on 19 June 2002 and released on a bail of Rs 5,000 and instructed to appear in High Court of Colombo when noticed. The two suspects were later indicted in the Colombo High Court and the case is now pending.

1570. Concerning **Eric Antunia Kramer** (ibid., para. 1596), SIU's investigations revealed that the above-named was taken into custody by police on 28 May 2002 on suspicion of attempted theft. It is alleged that he was subjected to assault at the police station. He was released on 30 May 2002 without being produced in a court. The alleged victim was admitted to a private hospital on 7 June 2002 where he was examined by a doctor, who reported that Eric Antunia Kramer had a number of bruises in his body as well as swollen legs. These could have been as a result of a beating with a blunt item. SIU, after the completion of its investigation, sought the advice of the Attorney-General on whether legal action could be taken against the suspected police officers. The Attorney-General forwarded indictments against the alleged perpetrators under the Torture Act. The alleged victim also filed a fundamental rights violation case in the Supreme Court of Sri Lanka. This case was dismissed due to discrepancies in the affidavits given to the Human Rights Commission and the Supreme Court.

1571. Concerning **Hiran Rasika and Kasun Madusanka** (ibid., para. 1598), in the course of the investigation, SIU recorded statements of the victims, their parents and other witnesses and the suspected police personnel. After the investigations, SIU forwarded the investigation notes to the Attorney-General's Department seeking advice on further action, which decided to indict the suspected police officers. Indictments are currently under preparation. Earlier, the police department conducted disciplinary inquiries, independent from the investigations carried out by SIU, against the suspected police officers and they were punished according to departmental procedures.

1572. By letter dated 3 January 2003, the Government provided further information concerning a joint urgent appeal sent on 13 September 2002 with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the independence of judges and lawyers, concerning **Nandini Herat**, (E/CN.4/2003/68/Add.1, para. 1628). The Government reported that CID initiated an investigation on 21 June 2002, before the receipt of the Special Rapporteur's communication. The investigation, which included medical examinations by various authorities, revealed that Ms. Herat was arrested by the Wariyapola Police on 8 March 2002 and tortured while in custody. Investigations also examined the alleged threats to **Priyantha Gamage** and **Nishantha Kumara**. The Attorney-General is considering the possibility of framing criminal charges against those responsible for the torture of the complainant Nandini Herat.

1573. By letter dated 8 July 2003, the Government provided further information concerning a joint letter sent on 16 September 2002 with the Special Rapporteur on violence against women.

1574. Concerning **Yogalingam Vijitha** (E/CN.4/2003/68/Add.1, para. 1609), the Government reported that Sri Lanka's Supreme Court, having heard the case on the basis of a fundamental rights application, held that her rights under the Constitution had been violated, granted Yogalingam Vijitha compensation of Rs. 250,000, and directed the Attorney-General to pursue the possibility of criminal prosecution of the perpetrators. As Yogalingam Vijitha has left the country, the Government, despite its efforts, has exhausted all possible avenues to record the victim's statement. Therefore, the Attorney-General decided that it was not possible to proceed with further investigations and instructed the police to terminate the investigations unless and until Yogalingam Vijitha is in a position to make a formal complaint to the Sri Lanka police.

Observations

1575. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Human Rights Committee (CCPR/CO/79/LKA, 1, para. 9) about persistent reports of torture and cruel, inhuman or degrading treatment or punishment of detainees by law-enforcement officials and members of the armed forces. The restrictive definition of torture in the 1994 Convention against Torture Act continues to raise problems in the light of article 7 of the Covenant. The Committee regrets that the majority of prosecutions initiated against police officers or members of the armed forces on charges of abduction and unlawful confinement, as well as on charges of torture, have been inconclusive due to lack of satisfactory evidence and unavailability of witnesses, despite a number of acknowledged instances of abduction and/or unlawful confinement and/or torture. Very few police or army officers have been found guilty and punished. The Committee also notes with concern reports that victims of human rights violations feel intimidated from bringing complaints or have been subjected to intimidation and/or threats, thereby discouraging them from pursuing appropriate avenues to obtain an effective remedy (art. 2 of the Covenant).

1576. Moreover, the Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Elimination of Discrimination against Women (CEDAW, A/57/38 (Part I), paras. 256-302) about the high and severe incidence of rape and other forms of violence targeted against Tamil women by the police and security forces in the conflict areas. While recognizing the prohibition of torture in the Constitution and the establishment of the interministerial working group to counter these acts of violence, the Committee is concerned that victims in remote areas might be unaware of their rights and of the manner in which to seek redress.

1577. The Special Rapporteur also draws attention to the concerns expressed by the Committee on the Rights of the Child (CRC/C/15/Add.207, para. 28) that male child offenders may be sentenced to whipping or caning under the Corporal Punishment Ordinance of 1889, and that the Education Ordinance of 1939 permits corporal punishment to be used as a disciplinary measure for boys and girls in schools and that many teachers and principals consider corporal punishment to be an acceptable form of discipline.

Sudan

1578. By letter dated 11 July 2003, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he had received information concerning **A. S. A.**, a 15 year-old girl in Nyala, Western Darfur. **A. S. A.**, an assistant to a street vendor selling tea in the Wehda district of Nyala, was arrested by the Police for Community Security (*Police Amn Al-Mujtama*) because she was working for not wearing socks, according to the regulations for female street vendors. On 1 June 2003, **A. S. A.** was reportedly sentenced to 30 lashes of the whip by the District Court (*Mahkamat Al-Muhafiza*), in Nyala. The sentence was reportedly carried out on the same day.

1579. By letter dated 24 September 2003, sent jointly with the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information concerning the following cases of students, who were reportedly detained and at risk of torture or ill-treatment, because they were suspected of leading student movements, having membership in opposition groups, or participating in demonstrations.

1580. **Ahmed Isameldin**, aged 25, **Annuel Abeigel**, aged 26, **Mao Rominio**, aged 28, and **Yaser Mohamed El Hassan Osman**, aged 44, Assistant Registrar of Khartoum University Medical School, whose cases were already included in an urgent appeal sent on 29 October 2002 (E/CN.4/2003/68/Add.1, para. 1721). The above-named persons along with an unknown number of other students have reportedly been released. Some were reportedly tortured while in detention. **Yaser Mohamed El Hassan Osman** reportedly remained in intensive care at Khartoum Hospital following his release. He was reportedly arrested again on 22 March 2003 and released without charge on 27 March 2003. It is reported that members of the security forces stood upon his chest and bladder, and beat him with an iron bar until he became unconscious. Another unidentified student from Khartoum University was reportedly beaten with hoses and forced to squat and jump like a rabbit. It is reported that **Ahmed Isameldin** and other students from Bahr al-Ghazual University, Khartoum, were reportedly beaten with hoses whilst in detention.

1581. **Muhassab Anwar Muhassab**, a fourth-year student from Atbara, and 24 other students. They were reportedly arrested on 13 November 2002 at the Khartoum University hostel by members of the National Security Agency (NSA) and taken to NSA headquarters in Khartoum. It is alleged that a security officer used his shirt to blindfold **Muhassab Anwar Muhassab** before ordering him to stand with his hands up. Police officers allegedly lashed all the students with whips and hoses. Nine students were reportedly released, and the remaining 16 were allegedly taken one by one and tied in contorted and painful positions to two sticks on the floor, where they were left for about one hour on the floor and one hour standing. It is further reported that they were transferred to the political section of Kober Prison around midnight. It is reported that, among the arrested, some had taken no part in any political activities. **Muhassab Anwar Muhassab** is reported to have been released on 14 January without charges.

1582. **Omar Farouk**, aged 22, a first-year medical student at Khartoum University. He was reportedly arrested on 4 December 2002 at his house by eight

people in civilian clothes carrying machine guns. According to the information received his hands were handcuffed behind his back and he was thrown onto the floor of the car. One man reportedly put his foot on his neck and the other kicked him. It is also reported that he was taken to a security building near the Farouk Cemetery, where he was allegedly beaten with a hose and a wooden stick and kicked without reason. It is further alleged that he was still handcuffed and his feet were tied together. He was allegedly forced to sit facing the wall for three hours. It is reported that the next day he and other students were transferred to the political section of Kober Prison. According to reports received, Omar Farouk's family was not allowed to visit him. After two weeks the security forces reportedly took Omar Farouk and the other students back to the security centre to be interrogated about who had organized a demonstration at the university. Security forces reportedly threw cold water over Omar, held him in a cold room with a fan and mocked and abused him. He was reportedly released on 9 January 2003 without charge after signing a guarantee that he would not engage in any political activity. The medical report following an examination of Omar after his release reportedly described of injuries found to be consistent with the above allegations.

1583. **Yusuf al-Beshir Musa**, aged 35, correspondent of al-Sahafa in Nyala, South Darfur. He was reportedly arrested by the security forces on 3 May 2003 under Article 26 of the 1999 Emergency Act. It is alleged that he was held incommunicado for three days at the National Security centre in Nyala and reportedly beaten with sticks on his arms, legs and body. It is reported that on the fourth day of his detention he was allowed to see a lawyer and was examined by a doctor whose report allegedly described marks of beatings on his buttocks and chest. He was reportedly released on 24 May 2003. It is believed that his lawyers lodged a complaint with the Attorney-General's Office in Khartoum.

1584. **Mohamed Sidiq Al-Zaybir**, a 23-year-old third-year student in the Art Faculty at Khartoum University. He was allegedly hit on the head and taken to a Toyota truck by a group of between nine and 11 people, when he was leaving the student residence halls at 8 a.m. on 16 June 2003. He was allegedly thrown onto the floor of the truck and tied up. After approximately 20 minutes Mohamed Sidiq Al-Zaybir was allegedly blindfolded and placed in the front seat. It is reported that they stopped at the offices of the National Security Agency (NSA) near Farouk Cemetery. Mohamed Sidiq Al-Zaybir was reportedly led away from the truck and was allegedly hit and kicked. He was then reportedly dragged to a room on the fourth floor containing a chair and a naked wire that was connected to an electricity supply. It is alleged that five or six individuals began to beat him as they questioned him about the Democratic Front for Sudanese Students (DFSS) and about particular individuals. An officer arrived and is said to have stopped the beating and continued the questioning. Mohamed Sidiq Al-Zaybir was allegedly beaten with a water hose when he claimed no knowledge of the group or the people. The beatings reportedly lasted from approximately 8:20 a.m. to 2 p.m. and from 3 p.m. to 6:30 p.m. His interrogators are also said to have threatened to kill him. It is reported that every time he lost consciousness from the beatings, he was allegedly forced awake by electric shocks and blows to the soles of his feet. At approximately 7 p.m., the officer reportedly returned, accompanied by five other people. Mr. Al-Zaybir was reportedly put into a car and 30 minutes later was thrown out onto Al Jamhoria Street. On the day of his release Mr. Al-Zaybir reportedly had a medical exam the report which described

Mr. Al-Zaybir's injuries as including: severe bruising around both eyes, bruising and swelling on the right side of the forehead, a cut on the right ear, major swelling behind the left ear, a deep, a 3 cm-long cut on the back, a 4 cm-long cut on the left shoulder, a 3 cm circular burns on the left hand, a 3 cm circular burns on the soles of the right and left feet, bruising on the inside of the elbow, and surface burns on the right forearm.

1585. **Shazly 'Abd Alfattah Ibrahim**, a 21-year-old, third-year law student at Al-Nilein University. He was reportedly arrested at midnight on 28 May 2003 by a police patrol of six officers and took him to a house between May and East Kalakala streets. It is reported that he was interrogated there until 31 May 2003. Shazly 'Abd Alfattah Ibrahim was allegedly beaten with electric cables and strangled with a wire during his detention. It is reported that on 31 May he was transferred to an NSA building on University Street and then reportedly moved again to the building near Farouk Cemetery, where the officers allegedly beat Shazly 'Abd Alfattah Ibrahim with sticks and hit his head against the wall until he passed out. He was then reportedly moved to a building in the Amaraat area, where he remained until 2 June, the date of his release. It is reported that Shazly 'Abd Alfattah Ibrahim was told not to visit a doctor or contact any human rights organizations or he would be arrested again. Mr. Ibrahim reportedly visited a doctor, who allegedly confirmed Mr. Ibrahim's injuries: a swollen right foot was swollen, an injured nose and left leg, severely bruised back and forehead, and the left ear was cut and bruised.

1586. By letter dated 25 September 2003, the Special Rapporteur advised the Government that he had received information on the case of **Ahmed Mohammedein Waadi**, a 35-year-old self-employed owner of a pharmaceutical store. He was reportedly arrested by approximately 14 members of the Security Force and taken from his store on 6 May 2003. He was reportedly driven to the Security Force offices in Maleet, where it is alleged that he was questioned about his relationship with the Sudanese Liberation Army (SLA). He was reportedly taken to a 3 m x 3 m room with his hands tied behind his back. It is alleged that he was severely beaten on his hands and feet by five people using whips, electrical wires until he passed out. It is also alleged that when he came to, they threatened to rape his wife and sisters. Ahmed Mohammedein Waadi is said to have remained in the Maleet barracks for two days. He was allegedly only able to leave the cell once, to use the bathroom. Ahmed Mohammedein Waadi was then reportedly moved to Al-Fasher City's Military Intelligence building, where he allegedly was held in a 5 m x 5 m cell for three more days sharing his cell with three other detainees, **'Abdallah 'Ali, Idris Hamed, and Ibrahim Mustafa**. They were reportedly randomly beaten, often in response to requests such as asking to use the toilet or asking for water. In addition, it is reported that Ahmed Mohammedein Waadi was threatened with rape during this period. The detainees were then reportedly transferred to a military prison, where Ahmed Mohammedein Waadi reportedly remained for seven days. Upon arrival, each detainee was allegedly whipped 10 or 15 times, and then placed in a 4 m x 4 m cell. It is alleged that the light and ventilation in the cell were poor. The detainees were allegedly only given water, bread and salt twice a day, and only allowed to go to the bathroom once a day. Ahmed Mohammedein Waadi was reportedly released on 18 May 2003. He was reportedly receiving treatment for the injuries that he sustained during the above incidents.

1587. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999, 2000, 2001 and 2002 for which no responses had been received.

Urgent appeals

1588. On 21 January 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the situation of human rights in the Sudan, concerning **Abdallah Fadl Alla Abdalla**, an engineer. He was reportedly arrested on the evening of 18 January 2003 by a group of armed security officers after raiding his house in Wad Albakhiet in Omdurman. He was reportedly charged with the offence of insulting the religious creed of Islam under article 125 of the 1991 Penal Code. After this initial arrest on 16 January 2003, he was released on bail on the afternoon of 18 January 2003. The security forces then re-arrested him three hours later, took him to an unknown location and refused to disclose his whereabouts to either his family or his lawyer. In view of the incommunicado nature of his detention in an unknown location, fears were that he may be at risk of torture and other forms of ill-treatment.

1589. On 23 January 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on human rights defenders, and the Special Rapporteur on the situation of human rights in the Sudan, concerning **Donato Dimo Wol**, the President of the Southern Sudanese Student Unions of Bahr Algazal University, and a student at the University's Faculty of Education. He was reportedly arrested at his house at 10 p.m. on 15 January 2003 by members of the security forces, and taken to an unknown location. The security forces are reported to have accused Donato Dimo Wol of being one of the organizers of student demonstrations that took place in October 2002, which had been the object of an intervention on 29 October 2002 by the Special Rapporteur on the right to freedom of opinion and expression, on the question of torture and on the situation of human rights in the Sudan as well as the Chairman-Rapporteur of the Working Group on Arbitrary Detention (E/CN.4/2004/68/Add.1, para. 1721). In view of the incommunicado nature of his detention in an unknown location, fears were expressed that he may be at risk of torture and other forms of ill-treatment.

1590. On 25 February 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the situation of human rights in the Sudan, concerning **Adam Abdel al-Rahman Abdel al-Shafe'**, aged 50, **Adam Abdel al-Rusul Adam**, aged 52, farmer, **Al-Omda al-Tijani Sayf al-Din**, aged 55, **Al-Omda Abdelallah 'Ali Harun**, aged 54, farmer, **Abdel al-Qader 'Issa Abdel al-Qader**, **Shogar Tur Shogar**, aged 30, student, **Abdel al-Karim**, aged 40, merchant, **Mohammad Abdel al-Jabbar Kundi**, aged 27, student, **Abdel al-Naser Isma'il**, aged 35, teacher, **Al-Sadeq Musa Al-Dum**, aged 25, student, **Abdelallah**, aged 25, shepherd, **Da'ud Shurum**, aged 35, farmer, **Mohammad Hamed Abdel al-Mulla**, aged 41, teacher. The 13 individuals named above, all from the Fur ethnic group, were reportedly detained at the end of January by the authorities in different villages in the

Darfur region, western Sudan. They were reportedly first taken to a detention centre in the town of Nyertetei and then transferred to another detention centre in the town of Zalingei. It is alleged that they are now held incommunicado in the town of Geneina, the capital of western Darfur. Some of the detainees are believed to have been at risk of ill-treatment while in detention. In view of the incommunicado nature of their detention, fears were expressed that they might be at risk of torture or other forms of ill-treatment.

1591. On 17 March 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on human rights defenders, and the Special Rapporteur on the situation of human rights in the Sudan, concerning **Adam Abdel Hamid Adam**, a trainee advocate. He was reportedly arrested 9 p.m. on 3 March 2003 by members of the security forces outside the Abdelmajeed Imam Cultural Centre in Khartoum North. Adam Abdel Hamid Adam was reportedly arrested along with journalist Mona Zahir Alsadati, and taken to the offices of the National Security Agency near Farouk Cemetery in Khartoum for interrogation. Mona Zahir Alsadati was reportedly released after two hours and was asked to report to security offices the next day. In view of the incommunicado nature of his detention, fears were expressed that Adam Abdel Hamid Adam may be at risk of torture and other forms of ill-treatment.

1592. On 19 March 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the situation of human rights in the Sudan, concerning **Edward Terso Lado**, journalist on the English-language newspaper the *Khartoum Monitor*. He was reportedly arrested at the newspaper's Khartoum office by members of the security forces on 11 March 2003 and taken to the National Security Agency office. It is believed that he may have been transferred to the secret political wing of Kober prison in Khartoum. He is reportedly held incommunicado at an unknown location and is allegedly at risk of torture. On 16 March, it is reported that Edward Terso Lado's family tried to visit him at the National Security Agency offices but they were allegedly not permitted to see him. A lawyer provided by the *Khartoum Monitor* was denied access to Edward Terso Lado.

1593. On 26 March 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative of the Secretary-General on human rights defenders, and the Special Rapporteur on the situation of human rights in the Sudan, concerning **Hussein Ibrahim Gindeel**, a 48-year-old human rights defender. He was reportedly arrested by four plainclothes security officers on the road near his house in Damazin, Blue Nile province in Eastern Sudan on 24 March 2003. He is said to be held in incommunicado detention. In view of the incommunicado nature of his detention, fears were expressed that he may be at risk of torture and other forms of ill-treatment.

1594. On 2 April 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the situation of human rights in the Sudan, concerning **Mohamed Al Wasila Abbas**, a graduate of Khartoum University aged 37. On the

evening of 23 March 2003 he was reportedly arrested by 12 armed security personnel from the National Security Agency at his house. In view of the incommunicado nature of the detention of Mohamed Al Wasila Abbas, concerns have been expressed that he might be at risk of torture or other forms of ill-treatment.

1595. By letter dated 21 April 2003, the Government reported that Mohamed Al Wasila Abbas was detained in accordance with the provisions of the National Security Forces Act 1999. His rights to physical and mental integrity are fully guaranteed. He was given access to medical treatment on 29 March 2003. He was not placed in incommunicado detention, and he was given access to visitation by members of his family (his mother, brother and uncle) on 3 April 2003. The family has hired a lawyer of their own choice to pursue his case, and he has been informed by the Advisory Council for Human Rights of the aforementioned information. Concerning fears that the detainee may be at risk of torture or other forms of ill-treatment, the Treatment of Detainees Regulation provides for elaborate provisions for the treatment of detainees in such a way as to preserve their dignity as human beings.

1596. On 7 April 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights in the Sudan, concerning scores of students reportedly detained after a wave of violent clashes between security forces and student demonstrators at a number of universities in Sudan. **Hassan Ali, Mohamed Siddig, Omar al-Amin, and Mohamed al Mustafa Hashim**, an economics student, and seven other students from Bakht El Ruda University in the town of Ed-Dueim, south of Khartoum were reportedly detained on 17 March 2003. It is reported that the police tried to disperse the protesters with tear gas and then shot at them using Kalashnikov rifles and revolvers, injuring a number of students. The police reportedly raided the female students' accommodation and arrested some students, who were later released. Some students were allegedly beaten by police during the raid. One student was said to have suffered severe internal injuries and others were badly bruised. Student **Ammar Najm al-Din** and graduate **Taher Basher** were arrested on 30 March, allegedly in connection with student protests against the conflict in Iraq, which took place on 22 March in El-Nilein University in Khartoum. Police, reportedly including special anti-terrorist units, fired tear gas at the demonstrators and beat them with truncheons. The students reportedly responded by throwing stones at the police who then fired live ammunition at them. It is reported that two students, Sherif Hassibullah and Haytham al-Tayeb, were killed during the demonstration. On 23 March students at Sudan University in Khartoum, reportedly held a meeting in protest at the police killings and use of excessive force against fellow students at El-Nilein. This meeting was reportedly broken up by police using tear gas. **Al-Amin Shams al-Din**, an engineering student suffering from asthma, reportedly died during the incident. It is reported that police claim he fell from a building, while students state that he was shot when others students lifted him up to avoid the tear gas that would have impaired his breathing. Another student, **Sami Yousef Ismail**, from Kasala University in eastern Sudan, was reportedly arrested at his home on 1 April. Fears were expressed that the force used on demonstrators may kill or injure other people. Concerns were expressed that the above-mentioned persons

might be held incommunicado and therefore may be at risk of torture and other forms of ill-treatment.

1597. On 17 April 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Ammar Hassanain Abdel-Sid**, an auditor aged 29. He was reportedly arrested at on 14 April 2003 by members of the national security forces and taken to the offices of the National Security Agency near Farouk Cemetery in Khartoum for interrogation. He is reportedly being held in incommunicado detention. In view of the incommunicado nature of his detention and the allegations of torture frequently reported by detainees who have been arrested by the National Security Agency, fears were expressed that Ammar Hassanain Abdel-Sid might be at risk of torture or other forms of ill-treatment.

1598. On 23 April 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Adam Abdel Rahman Abdel Shafe'**, a member of the Fur ethnic group who was reportedly arrested in January 2003. His case was included in an urgent appeal sent with the Special Rapporteur on the situation of human rights in the Sudan and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 25 February 2003. While the 12 other individuals who were allegedly arrested with him have reportedly been released, Adam Abdel Rahman Abdel Shafe' is reported to still be held in incommunicado detention in Geneina. **Diko Grini**, a community leader of the Fur, aged approximately 80, was also reportedly arrested in January 2003 and is held in incommunicado detention in an unknown place. Concern was expressed regarding his health. In view of the nature of their detention, fears were expressed that the two above-named men may be at risk of torture or other forms of ill-treatment.

1599. On 24 April 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Fathi Mohammad al-Hassan**, aged 41, a member of the Sudanese Arab Ba'ath Socialist Party and occasional journalist for the newspaper *Al-Ayam* (The Days). He was reportedly arrested at his home by national security personnel at 2.30 p.m. on 22 March 2003 and taken to an unknown place of detention, where he is said to be detained incommunicado. In view of the incommunicado nature of his detention and the allegations of torture already received, fears were expressed that he might be at risk of torture and other forms of ill-treatment.

1600. On 25 April 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Abubaker Hamed Nur** and **Yusuf Mohammad Faleh**, engineers. They were reportedly arrested on 8 April 2003 in Khartoum and are being held in the special political section of Kober Prison. **Mohammad Bashir Ahmed** and **Bashir Bushara** were reportedly arrested on 18 April in Geneina, West Darfur. It is then reported that **Hashem al-Tayeb**, **Abdel Rahman Ahmad** and **Mohammad Hashem Abdel Rahman** were also arrested in April. All are from the Zaghawa ethnic group and believed to be held in a security centre in Geneina. **Ibrahim Mohammad Hassan**, a member of the Fur ethnic group, a photographer, was reportedly arrested on 19 April, in Kabkabiya and transferred to Shala Prison in El Fasher. In view of the

incommunicado nature of their detention, fears have been expressed that the above-mentioned persons might be at risk of torture or other forms of ill-treatment.

1601. On 28 April 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning the arrests and detentions in Darfur and Khartoum carried out by the National Security Agency and Military Intelligence services, allegedly targeting members of the Fur and Zaghawa tribes. On 8 April 2003 the National Security Agency reportedly arrested seven men in Kubkabia, south of the town of Al Fasher in Northern Darfur. The men that have been detained reportedly include: **Adam Mohamed Ahmed Mohamed Girba**, trader, **Mohamed Karama**, trader, **Khalil Mohamedain**, farmer, and **Mohamed Ibrahim Tyrab**, farmer, from the Four tribe. The persons arrested reportedly include as well **Omer Hussain Ali**, teacher, **Adam Haroon Noor**, teacher, and **Youseif Hussam**, trader, from the Zaghawa tribe. The men have reportedly been transferred to Shala prison near Alfashir. During the first week of April 2003, Military Intelligence reportedly arrested two men from the Four tribe in Zalengi: **Adam Ahmed Abu Jamal** and **Abd Al Gader Salim Barakat**. During the same time period other four men were reportedly arrested in Geneina in Western Darfur: **Abd Al Rahman Ahmed**, trader, **Mohamed Hashim Abd Al Rahman**, trader, **Mohamed Seid Ahmed**, employee with the Department of Zaka and Tax Office, and **Seid Bashara**, trader, all belonging to the Zaghawa tribe. It has been alleged that Abd Al Gader Salim Barakat has been at risk of torture during detention, and there are serious concerns that the other detainees may at risk of torture or other forms of ill-treatment.

1602. On 2 May 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Lenin al-Tayeb Yusuf**. He was reportedly arrested by the security forces at around 10 a.m. on 24 April 2003, at the al-Sudan school in Kalakla, a suburb of the capital Khartoum. It is reported that he is held incommunicado at Kober Prison. His brothers, Al-Shafi, Hashem and Khidder al-Tayeb Yusuf, on behalf of whom an urgent appeal was sent on 4 December 2002 (E/CN.4/2003/68/Add.1, 1727), were all held incommunicado and allegedly severely beaten by the security forces. Khidder al-Tayeb Yusuf was released without charge on 16 December. In view of the incommunicado nature of his detention, fears were expressed that Lenin al-Tayeb Yusuf may be at risk of torture and other forms of ill-treatment. Fears were expressed regarding the situation of Al-Shafi al-Tayeb Yusuf.

1603. On 9 May 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Hana Mohamed Ali** (f), **Mawahib Ali** (f), **Huda Da'wood** (f), **Intisar Abdel Rahman Fadl** (f), **Mohamed Al Hassan Rahma**, **Hassan Harri**, **Mohammed Ahmed Khalid**, **Da'wood Abdel Rhaman**, **Abdel Azim Daw El Beit**, **Ashraf Alhilo**, **Haythem Samba**, **El Tayeb**, **Tagelsir**, **Al Noor**, **Um Al Hassan Sharoofa** (f), and **Asha Sharoofa** (f), all students at Zalingei University.

1604. The students were reportedly arrested on 1 May 2003 at Zalingei University after a protest over financial issues such as payment of grants and food and transport allowances. The riot police intervened, reportedly using tear gas and sticks against the

students. It is reported that one university building was burnt down during the protest. Um Al Hassan Sharoofa and Asha Sharoofa have reportedly been transferred to hospital in Zalingei. This is allegedly for treatment of injuries sustained when they were severely beaten by security personnel in detention. The other 14 students are reportedly being detained incommunicado in an office of the security services in the town of Zalingei, Western Darfur province. In view of the incommunicado nature of their detention, fears were expressed that they might be at risk of torture or other forms of ill-treatment.

1605. On 9 May 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Abdel Shafi Issa Mustapha**, the director of the Nyala Textile Factory. He was reportedly arrested on 25 April 2003 by security forces in Nyala, Western Darfur. He is believed to be currently held in incommunicado detention at an unknown place. In view of the incommunicado nature of his detention in an unknown place, fears were expressed that he may be at risk of torture or other forms of ill-treatment.

1606. On 9 May 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Ahmed Da'wah Al Bayt Ahmed**, a 35-year old member of the Student Independent Congress and a graduate of the University of Omdurman Al Ahlia.

1607. At around 7:30 p.m. of 20 March 2003 Ahmed Da'wah Al Bayt Ahmed was reportedly arrested near the Hejazi college, next to the University of Sudan. He was reportedly seen at Kober prison. In view of the prolonged incommunicado detention of Ahmed Da'wah Al Bayt Ahmed, fears were expressed that he might be at risk of torture or other forms of ill-treatment.

1608. On 13 May 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Yousif Al Bashier Mousa**, a 35-year-old disabled reporter for the *Al Sahafa* daily newspaper. He was reportedly arrested on 3 May 2003 at Nyala stadium by three security officers and taken to the National Security Offices north of the Nyala industrial park where he was detained in a 2 m x 1 m cell. It is believed that there was little ventilation in cell and that he was forced to sleep on the concrete floor. He was reportedly not allowed to go to the toilet during his detention, and was provided with only two meals during a four-day period. Every night, beginning at 10 p.m., he was interrogated about his activities and the information that he sent to *Al Sahafa*. He was reportedly held at gunpoint, threatened with rape and damage to his remaining leg, and repeatedly beaten and punched in the face and abdomen. It is also alleged that sticks were used to beat him on the shoulders and the soles of his feet. Following his detention in the National Security Offices, Yousif Al Bashier Mousa was reportedly moved to the Nala general prison. He was reportedly allowed to receive medical treatment on 6 May 2003. A doctor reportedly confirmed his allegations. In view of reports that he may have been at risk of various forms of ill-treatment while in detention, fears were expressed that Yousif Al Bashier Mousa may continue to be at risk of torture and other forms of ill-treatment while in detention.

1609. On 22 May 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women, concerning a **14-year girl** from Al Wihida Neighbourhood (Unity) of Niyala in Darfur, Western Sudan. She was reportedly arrested by the Public Police Force (*alshorta alsha'abiya*), which is said to be an irregular police force set up by the ruling party to "guard the public decency and the morality of the nation". She was convicted of adultery on 17 May 2003, and reportedly sentenced to 100 lashes of the whip. The charges were reportedly laid against her because she was nine months pregnant but unmarried. She was tried in front of the criminal court in Niyala under article 146 of Sudan's 1991 Penal Code, which allegedly reads as follows: "Whoever commits the offence of adultery (*zina*) shall be punished with: Execution by stoning when the offender is married (*muhsan*), or one hundred lashes of the whip when the offender is not married (non-*muhsan*)." It has been alleged that in previous cases sentences have been passed and carried out on the same day, reportedly giving the defendant no chance to appeal. In view of this, fears were expressed that she may be imminently at risk of corporal punishment.

1610. By letter dated 3 July 2003, the Government informed that it upholds the international human rights standards which are incorporated in the Sudanese Penal Law. The practice in Sudanese courts, the Government informed, complies with the requirements of enforcing these standards along the following regulations: elderly people at the age of 70 years old are not subject to any execution sentences; a minor of 18 years old is not subject to any execution or conscription in the armed forces; a pregnant woman is not subject to execution except after a period of two years from the passage of the delivery date; and a woman breastfeeding a baby is not liable to execution unless after two years of breastfeeding.

1611. On 18 June 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Ramadan Ismail, Abu Nigel El Amin, Juma Mahamoud and Juma Omar**, all from the Nuba ethnic group. They are reportedly detained incommunicado by security forces in the town of Dongola, Northern Sudan, since 19 May 2003. They were reportedly arrested while attending a meeting at the house of **Awad Ibrahim**, a well-known activist. The five men were reportedly taken to the headquarters of the security forces in Dongola, where they were accused of being traitors. Later the same day, Awad Ibrahim's body was reportedly returned to his family home by the security forces. It is believed that he died as a result of the treatment he was at risk of while in detention. Under the 1999 State of Emergency Act and the National Security Forces Act, the security forces are said to be entitled to hold people in incommunicado detention without judicial review for up to nine months. In view of the incommunicado nature of their detention, fears were expressed that the four above-named persons may be at risk of torture and other forms of ill-treatment while in detention.

1612. On 20 June 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Elhadi Tangur**, a member of the Blue Nile community. He was reportedly arrested at his home in the capital Khartoum on 16 June 2003 at 8 a.m. by plainclothed members of the security forces. He is thought to be held incommunicado at the headquarters of the security forces in Khartoum East. In view of the incommunicado nature of his detention, fears were expressed that he may be at risk of torture and other forms of

ill-treatment. Furthermore, concerns were expressed concerning **an unknown number of people** allegedly arrested by the security forces in the town of Demazin, Blue Nile State, on or around 16 June 2003. It is not known where they were taken or if they are still being held by security forces. It is thought that they were also arrested in connection with the same meeting on the peace process, which Elhadi Tangur participated in.

1613. On 24 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Abbas El Tigani**, aged 26, and **Gamar Eldin Mohammed Eisa**, aged 35, both students at El Nilein University, in Khartoum. Abbas El Tigani is reported to have been arrested on 29 May 2003 by plain clothed security officers. Gamar Eldin Mohammed Eisa was reportedly arrested on 10 June 2003 by plain clothed security officers from the coordination office for West Darfur State, in Khartoum. Both students are said to be held in incommunicado detention at an unknown location. In view of these allegations, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

1614. On 26 June 2003, the Special Rapporteur sent an urgent appeal, concerning **Abubaker Hamed Nur, Yusuf Mohammad Faleh, Mohammad Bashir Ahmed, Bashir Bushara, Hashem al-Tayeb, Abdel Rahman Ahmad, Mohammad Hashem Abdel Rahman** and **Ibrahim Mohammad Hassan**, whose cases were addressed in a joint urgent appeal sent on 25 April 2003 with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. It is reported that these persons are held in incommunicado detention in an unknown location. In view of these allegations, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

1615. On 26 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, concerning **Abkr Mohammed Abdo Shain**, a 40-year-old member of the Zaghawa ethnic group. He was reportedly arrested on 18 June 2003 by the military intelligence in Sarf Ommra, a village situated about 100 km east of Geneina, West Darfur State. He is believed to have been brought to El-Fashir, North Darfur State after his arrest but to be detained at an undisclosed location. Suleiman Mahmoud Nadi, who was reportedly arrested with him was shot dead by the military intelligence. In view of the alleged incommunicado detention of Abkr Mohammed Abdo Shain in an unknown place, and the allegations according to which the person who was arrested with him has been killed, fears were expressed for his physical integrity.

1616. On 8 July 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the independence of judges and lawyers, concerning **Gazi Suliman**, a lawyer and Chairperson of the Sudan Human Rights Group. He was reportedly arrested on 2 July 2003 by officers of the National Security Agency (NSA) and subsequently taken to the NSA Political Section near Farouk cemetery. His whereabouts are allegedly unknown. His family is reported to have visited Kober Prison and NSA headquarters and to have been told in both places that he was not being held there. In view of the alleged incommunicado detention at an unknown

location of Gazi Suliman, fears were expressed that he may be at risk of torture or other forms of ill-treatment.

1617. By letter dated 22 October 2003, the Government reported that Gazi Suliman was released on 14 July 2003, and that he stated at a press conference upon his release that he had been well treated during his detention.

1618. On 8 July 2003, the Special Rapporteur sent an urgent appeal, concerning **Ramadan Ismail, Abu Nigel El Amin, Juma Mahamoud and Juma Omer Alnur**, all from the Nuba ethnic group, whose cases were addressed in an urgent appeal sent on 18 June 2003. They are believed to have been detained incommunicado by security forces in the town of Dongola, Northern Sudan, since 19 May 2003. Juma Omer Alnur was reportedly in a coma in the Intensive Care Unit of Khartoum Teaching Hospital as a result of the ill-treatment received by the National Security Agency while in detention. In view of the alleged incommunicado detention of Ramadan Ismail, Abu Nigel El Amin, Juma Mahamoud, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

1619. On 16 July 2003, the Special Rapporteur sent an urgent appeal, concerning **Adam Yaseen Mohamed**, aged 26, **Abdel Kaream Ahmed Haydo**, aged 22, **Burmma Abdel Rahman Masar**, aged 30, **Saeed Ahmed Mohamed**, aged 29, and **Dirdima Bushra Hatala**, aged 27, all farmers from the Ta'aisha tribe. They were reportedly arrested on 1 April 2003 in Rehaid al-Birdi, South Darfur, and charged with murder under article 130 of the Penal Code. It is reported that they were initially held in Rehaid al-Birdi prison before being transferred to Nyala prison on 23 June 2003. They are believed to have been beaten on their arms and legs, flogged with a water hose and injured by knives while in custody. It is also alleged that a bottle was inserted into their anus and that their testicles were crushed. It is alleged that, if convicted, the men may be sentenced to death. Their lawyers have reportedly requested that the defendants receive medical examinations and that investigations into allegations of torture be conducted. Fears were expressed that they may continue to be at risk of being at risk of torture and other forms of ill-treatment. Concern was expressed for their health if they did receive prompt and adequate medical assistance.

1620. **Yousif Haroun Helu**, aged 23, **Adam Ebaid Abdallah**, aged 25, both donkey traders belonging to the Salamat tribe, and **Adam Bahkeit Adam**, a 30-year-old farmer belonging to the Reziegat tribe. They were reportedly arrested on 29 April 2003 in Yaseen village, South Darfur, and charged with armed robbery (*haraba*) under article 167 of the Penal Code. It is reported that they were initially held in the Yaseen village prison for three days before being transferred to the prison in Nyala, South Darfur. It is alleged that while in custody, they were chained and beaten by officers from Yaseen police station with their fists, wooden staves, and gun butts. It is reported that, if convicted, they may be sentenced to death and crucifixion. Two lawyers representing the defendants have reportedly requested that their clients be allowed to receive medical examinations and that there be investigations into allegations of torture. Fears were expressed that they may continue to be at risk of torture and other forms of ill-treatment. Concern was also expressed for their health if they do not receive prompt and adequate medical assistance.

1621. On 18 July 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Juma Omar El-Nur**, whose case was the subject of urgent appeals sent on 18 June and 8 July 2003. He was reportedly taken on 12 July 2003 by security force personnel from Khartoum hospital to an unknown location in Khartoum, where he is again being held incommunicado. He reportedly regained consciousness on 7 July after spending one week in a coma. It is alleged that he had been taken to hospital on 22 or 23 June after having been burnt on the neck, chest and hand by a solution of sulphuric acid. It is reported that he was also in need of an operation following a kidney that was injured, allegedly while in custody. He was reportedly still in critical condition when he left hospital. In view of the incommunicado nature of his detention, fears have been expressed that he may continue to be at risk of torture and other forms of ill-treatment. Fears have also been expressed regarding his health if he does not receive appropriate and prompt medical treatment. **Abu Nigel El Amin**, who was reportedly taken on 10 June by security force personnel from Khartoum Hospital back to Dongola in Northern Sudan. Security forces officers had reportedly assured Abu Nigel El-Amin's relatives in Khartoum that he would be released upon his arrival in Dongola. They also allegedly stated that **Ramadan Ismail** and **Juma Mahamoud** have also been released. However, the relatives of the three men have still not established contact with them. Fears continue to be expressed regarding their safety. The Special Rapporteurs noted that authorities reportedly opened an investigation into the death of **Awad Ibrahim**, who had allegedly been tortured to death by the security forces. However, it was regrettable that the authorities reportedly refused to include the allegations of Juma Omar El-Nur's torture in the same investigation.

1622. On 18 July 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **El Fadil Adam Mohammed Ahmed Noorein**, a 30-year-old member of the Fur ethnic group and a former member of the National Congress (NC) party. He is said to be held incommunicado and without charge at the headquarters of the security forces in the town of Nyala, South Darfur province. El Fadil Adam Mohammed Ahmed Noorein was reportedly arrested at his office in Nyala on 10 July 2003 by two plain-clothed security forces officers. In view of the incommunicado nature of his detention, fears have been expressed that he may be at risk of torture and other forms of ill-treatment.

1623. On 21 July 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Yasser Ali Abu Dia**, **Osman Ibrahim**, **Pakinam Saad Eddin**, and **Mohamed Hajana**. They were reportedly arrested by the security forces in the town of Sinja in White Nile State, and are being held incommunicado at an unknown location. **Yasser Ali Abu Dia**, was allegedly arrested on 13 July 2003, and the other three above-named persons, on 16 July 2003. In view of their alleged incommunicado detention at an unknown place, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

1624. On 24 July 2003, the Special Rapporteur sent an urgent appeal, concerning **Bahar El Din Shibou** and **Hamid Adam Hassan Abdelrahman**. They are believed to be held in incommunicado detention at an unknown place. Bahar El Din Shibou

was reportedly arrested by government soldiers on 11 or 12 July 2003, at a primary school in Tine, North Darfur. No information has been received regarding the date of arrest of Bahar El Din Shibou. In view of their alleged incommunicado detention at an undisclosed place, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

1625. On 31 July 2003, the Special Rapporteur sent an urgent appeal, concerning **Mohamed Omer Ibrahim**, aged 60, former regional manager of national telecommunications company in Darfur, **Suleiman Hasab Allah**, aged about 70, shertai (traditional leader) in the eastern Jebel Marra Mountains region, **Dr. Mohamed Issa El Haj**, aged 51, pharmacist and intellectual, **Abdelaziz Abdalla Abdel Mahmoud**, aged 39, former civil servant, **Suleiman Tahir Abdalla**, aged 50, sheikh (native village administrator), **Mohammed Mohammed Tahir**, aged 37, son of Suleiman Tahir Abdalla, and **Abu Gasim Musa Eltahir**, aged 23, relative of Suleiman Tahir Abdalla, all community leaders of Fur ethnicity. They were reportedly arrested between 16 and 26 July 2003 in various locations in the Darfur region and their whereabouts have not yet been disclosed. In view of the alleged incommunicado detention of the above-named persons at undisclosed locations, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

1626. On 5 August 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, concerning **Hamdi Sebit**, a 26-year-old student, **Michael Kustober**, a 27-year-old education student, and **Mohammed Ibrahim**, a 29-year-old sociology student. They were reportedly arrested by security forces on 31 July 2003 at Juma University, Khartoum, and are believed to be currently held in incommunicado detention at an unknown location. On 31 July 2003, a large number of police armed with sticks reportedly interrupted a march of students who were allegedly protesting against the refusal of the Vice-Chancellor of Juma University to postpone student elections until the registration of all students had been completed. At least 20 students are said to have been injured in these clashes, during which they were allegedly severely beaten by police officers with sticks and hard metallic objects, before being transferred to Khartoum hospital. Approximately 60 students were reportedly later arrested, most of whom were released on bail and charged with "disturbing public order". In view of the alleged incommunicado detention of the above-named students at an unknown location, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

1627. On 8 August 2003, the Special Rapporteur sent an urgent appeal, concerning **Adam Hamid** and **Al Haj Al Nour**, two men of Fur ethnicity inhabitants of Zalingei, Western Darfur State, who were reportedly arrested by the security forces in Zalingei on 5 July 2003 and transferred to the Nyala prison on 20 July 2003. I would also like to draw your attention on information I have received concerning **Ahmed Dut Hamid**, sheikh of Gadarra, north of Kabkabiya, and **Musa Daoud**, a man from Shoba village, both of Fur ethnicity, who were reportedly arrested in Kabkabiya on 30 July 2003. These four men are believed to be held in incommunicado detention and the whereabouts of Ahmed Dut Hamid have not been disclosed. In view of their alleged incommunicado detention, at an unknown place in the case of Ahmed Dut Hamid, fears have been expressed that they may be at risk of torture or other forms of ill-treatment.

1628. **Mohamed Omer Ibrahim, Dr Mohamed Issa El Haj and Abdelaziz Abdalla Abdel Mahmoud**, whose cases were included in an urgent appeal sent on 31 July 2003, as well as **El Fadil Adam Mohammed Ahmed Noorein**, whose case was included in a joint urgent appeal sent on 18 July 2003 with the Special Rapporteur on freedom of expression and opinion, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention. It is reported that they are being detained at the office of the security forces in Nyala, where they are reportedly forced to do harsh physical exercises and are deprived of sleep.

1629. On 19 August 2003, the Special Rapporteur sent an urgent appeal, concerning **Abdul Majid Mosa Hassan**, the local secretary of the National Congress and member of the Fur ethnic group, as well as **17 other men from the Fur ethnic group** and **10 men from the Zaghawa ethnic group**. It is reported that they were all arrested by army personnel between 4 and 5 August 2003, either in their homes, in the streets or at the market in the town of Kabkabyia, North Darfur State. They were reportedly initially taken to the security forces premises in Kabkabyia and a number of them were allegedly transferred to the security forces premises in El-Fashir, North Darfur State. In view of their alleged incommunicado detention, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

1630. On 22 August 2003, the Special Rapporteur sent an urgent appeal, concerning **Abdel Aziz Abdul Kader**, teacher, **Mahdi Yaqub**, teacher, **Ahmed Abdul Rahman**, teacher, **Adam Hussain Mohammed Fadil**, Omda (community leader), **Adam Saleh**, Omda, **Musa Mohammed**, Omda, **Al-Haj Tirab Mahmoud**, doctor, **Mohamed Osman Al-Basha**, **Adam Dau Al-Beit Tur**, **Ali Musa Bakara**, as well as **14 other men**, all influential members of the Fur ethnic group. They were reportedly all arrested on 12 August 2003 by security forces offices in Kass, South Darfur State, and taken to security forces premises, where they detained incommunicado in a single cell, flogged and severely beaten with sticks. While 14 of the detainees were transferred to the prison in Nyala on 14 August 2003, 10 other men are believed to remain detained in Kass and fears were expressed that they may be at risk of further torture and other forms of ill-treatment. It is reported that the 14 men detained in Nyala have access to their relatives but that the Governor of Southern Darfur is reportedly not allowing their lawyers to visit them in detention. Five of them reportedly sustained serious injuries as a result of the alleged beatings in Kass and were taken to the general hospital in Nyala on 19 August 2003 for a check up. It is alleged that they did not receive adequate medical treatment and that they were taken back to the prison.

1631. On 2 September 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on racism, concerning 42 persons of Fur ethnicity, **Fadl Adam Shatta**, **Gamreldin Adam Shatta**, **Hassan Asooli**, **Mohammed Suleiman Niple**, **Azhari Yagoub**, **Abdel Aziz Mukhtar**, **Adam Mohammed Khatir**, **Ibrahim Zakari**, **Abdel Latif Hassan**, **Zakaria Mohammed Suleiman**, **Abdel Mutalib Ahmed Omer**, **Abdalla Hamza**, **Adam Mohammed Suleiman**, **Siddig Ismail**, **Ismail Mohamed Abdallah**, who is reportedly a mentally ill man, **Abaker Ismail Adam**, **Alsadiq Sidiq**, **Suleiman Adam Musa**, **Abu Beker Tamboor**, **Hayder Tamboor**, **Nasr Eldin Tamboor**, **Yaqub Rahma Tanusi**, who is reportedly a Shertai tribal leader, **Abud Mandy**, **Alhaj Tyrab Mahmoud**, **Abaker Adam Mohamed Sho**, **Moubarek Yagoub Salih**, **Ishag Izel Dean**, **Ibraheam Musa Abdel Majeed**,

Ammar Alnemairy, Ahmed Abdel Rahman Shabab, Hashim Mohamed Abu Albasher, Mohamed Adam Tor, Easa Mohamed Abdel Bary, Abdel Aziz Ahmed Musa, Yaya Abdel Jaleal, Alhady Ishag Abdel Kaream, Abu Algasim Ahmed Abdel Bagy Tilib, Nour Aldean Jibril Abdel Mawla, Ismaeal Mohamed Haroun, Mohamed Easa Boukhary and Tijany Abdella Mahmoud. All were reportedly arrested by security forces and are being held in incommunicado detention.

1632. Fadl Adam Shatta, Gamreldin Adam Shatta and Hassan Asooli were arrested by members of the security forces on 18 August 2003 in the town of Kabkabyia, North Darfur. They are reported to be held at security forces premises in Kabkabyia town. Abdel Latif Hassan, Zakaria Mohammed Suleiman, Abdel Mutalib Ahmed Omer, Abdalla Hamza, Adam Mohammed Suleiman and Siddig Ismail were also reportedly arrested during August 2003 and are allegedly being held in security forces premises in Kabkabyia town.

1633. Mohammed Suleiman Niple, Azhari Yagoub, Abdel Aziz Mukhtar, Adam Mohammed Khatir and Ibrahim Zakaria were reportedly arrested during August 2003 and are said to be held in Shala Prison in El Fashir.

1634. Ismail Mohamed Abdallah, Abaker Ismail Adam, Alsadiq Sidiq, and Suleiman Adam Musa, were reportedly arrested around 3 August 2003 in the village of Mokjar in Western Darfur by security forces. It is reported that after being detained incommunicado in the security forces' premises in Mokjar, they were transferred to Nyala, capital of Southern Darfur province, on 5 August 2003. Since then, the four men named above have reportedly been detained incommunicado at the Security Forces premises in Nyala. They are allegedly not being allowed any contact with their relatives or lawyer.

1635. Abu Beker Tambour, Hayder Tambour, Nasr Eldin Tambour, Yaqub Rahma Tanusi, and Abud Mandy and four others were reportedly arrested by officers from the military intelligence in Zalingey, West Darfur State, and Western Sudan between 19 and 22 August 2003. They were reportedly taken to the security forces' premises in Zalingey where they are believed to be held in incommunicado detention. Nasr Eldin Tambour was reportedly transferred to a hospital in Zalingey on 26 August 2003. There are reports that beatings by security forces officers worsened a kidney injury he had sustained prior to his arrest. He is reportedly chained to his hospital bed, under surveillance of security forces officers and is not allowed any visits. It is also reported that Nasr Eldin Tambour was previously detained incommunicado in Nyala prison, around August and September 2002, before being released without charge after about a month.

1636. It is also reported that on 19 August 2003, the security committee in Kass Province of Western Sudan issued an emergency code to arrest and detain **Alhaj Tyrab Mahmoud, Abaker Adam Mohamed Sho, Moubarek Yagoub Salih, Ishag Izel Dean, Ibraheam Musa Abdel Majeed, Ammar Alnemairy, Ahmed Abdel Rahman Shabab, Hashim Mohamed Abu Albasher, Mohamed Adam Tor, Easa Mohamed Abdel Bary, Abdel Aziz Ahmed Musa, Yaya Abdel Jaleal, Alhady Ishag Abdel Kaream, Abu Algasim Ahmed Abdel Bagy Tilib, Nour Aldean Jibril Abdel Mawla, Ismaeal Mohamed Haroun, Mohamed Easa Boukhary and Tijany Abdella Mahmoud.** All are reportedly detained in Nyala prison since 14 August 2003

without official charges. According to the information received the prisoners have all reportedly been at risk of torture or other forms of ill-treatment. Five of them are allegedly seriously injured without access to medical assistance. It is also reported that the detainees are kept in unsanitary conditions with little to eat and they are not allowed any visits. It is alleged they have been forbidden to bring personal effects into the prison, including food or bed-covers which are allegedly not provided within the prison. In the light of reports on allegations of torture and incommunicado detention of the above named persons, fears were expressed that they may be at risk of further torture or other forms of ill-treatment. In the view of the reported conditions of detention and the critical health of several of the above named people, serious fears were expressed if they did not receive appropriate and prompt medical treatment.

1637. On 9 September 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on racism, concerning **Sideag Altahir Tarjok**, a 35-year-old lawyer from Alfashir Hey Alghobba, **Abdel Raheam Arja**, a 34-year-old lawyer from Kotoum, **Ali Mansour Maneas**, a 48-year-old administrative officer in the Alfashir province, **Mohamed Elias**, a 33-year-old civil service worker, all members of the Zaghawa tribe, as well as **Yagoub Khameas**, **Samear Ibraheam Abdel Malik**, **Mohamed Nasr el Dean Mohamed Ahmed**, **Ahmed Arbab Mohamed Joumaa** and **Musa Abdel Rahman Abaker**, members of the Four tribe. Sideag Altahir Tarjok was arrested on 17 August 2003 and he is allegedly held in incommunicado detention in the security office. It is alleged that he has been at risk of different forms of torture or ill-treatment including floggings, kicking and beating, in particular on his hands. Abdel Raheam Arja was reportedly arrested in mid-June 2003. It is alleged that he has been beaten with sticks and flogged. Ali Mansour Maneas was reportedly arrested during the first week of July 2003 and since then detained in the Alfashir prison without any official charge. Mohamed Elias was reportedly arrested while at home in Hey Altiganya on 17 August 2003. Yagoub Khameas, Samear Ibraheam Abdel Malik and Mohamed Nasr el Dean Mohamed Ahmed, were reportedly arrested on 20 August 2003. Ahmed Arbab Mohamed Joumaa and Musa Abdel Rahman Abaker, were reportedly arrested on 25 August 2003. They are said to be detained at the Zalingy security forces' detention facility. In view of the reports on allegations on torture and incommunicado detention of the above named persons, serious fears were expressed that the above mentioned persons may be at risk of further torture or other forms of ill-treatment.

1638. On 16 September 2003, the Special Rapporteur sent an urgent appeal, concerning **Abaqer Adam Mohamed Sh'aib** and **Abdul Aziz Ahmed Musa**, whose cases were included in an urgent appeal sent by the Special Rapporteur on the question of torture on 22 August 2003. They were allegedly detained along with 22 other men (also included in the above-mentioned urgent appeal), who have reportedly been released on 9 September 2003. It is reported that Abaqer Adam Mohamed Sh'aib remains detained incommunicado at the security forces premises in Kaas, South Darfur State, and that Abdul Aziz Ahmed Musa is still detained in the office of the military intelligence in the city of Nyala. Fears were expressed that they may remain in detention to allow signs of torture on their body to disappear. In view of the alleged incommunicado detention of Abaqer Adam Mohamed Sh'aib and allegations of torture against the two above-named men, fears were expressed that they may be at risk of further torture and other forms of ill-treatment.

1639. On 25 September 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Mohamed Saeif Al Dawla Ahmed Hassan**, a student. He was reportedly arrested on 17 September 2003 by the National Security Agency (NSA) at the entrance of the Faculty of Education, Wadi Al Nile University, in Atbara. It is alleged that he was subsequently taken to the NSA offices. In view of reports according to which other detained students have been at risk of torture and other forms of ill-treatment, fears were expressed that he may also be at risk of torture or other forms of ill-treatment.

1640. On 1 October 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Zakarea Mohamed Ahmed Ali**, a 27-year-old farmer from Arola, Wady Salih, **Ibraheam Omer Altahir**, a 25-year-old farmer from Arola, **Altigany Yagoub Omer**, a 25-year-old farmer, from Arola, **Ahmed Yousif Ateam**, a 26-year-old farmer from Arola, **Easa Alnour Salih**, a 35-year-old Omda (community leader) residing in Farfo, Wady Salih, as well as the following men from Zalingy: **Nasr el Dean Tambor**, **Abdel Mawla Adam Abdel Mawla**, **Samear Ibraheah Shanoda**, student at Zalingy University, **Adam Khawaja**, **Ahmed Arbab Jouma**, **Musa Abdel Rahman** and **Aboud Mendy**. It is reported that these men were arrested on 9 August 2003 from Wady Salih and Zalingy provinces, Darfur, on 9 August 2003. Easa Alnour Salih was reportedly arrested on 30 August 2003. They are all alleged to be still under arrest without any official charges and to be detained at the military intelligence offices in Zalingy. The detainees are reportedly denied visits from their relatives and do not have access to adequate food. It is also alleged that Easa Alnour Salih has been beaten with sticks and flogged. It is thought that other detainees may have been at risk of a similar treatment.

1641. On 3 October 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Osman Ahmed Fagharay**, a 54-year-old retired Police Chief from Al a'Mra'ar. It is reported that he was arrested on 28 September 2003 by the National Security Agency (NSA). It is reported that he has been denied access to his family and lawyer. Osman Ahmed Fagharay is said to suffer from diabetes and it is thought that he does not have his medication with him. In view of his alleged incommunicado detention, fears were expressed that he may be at risk of torture or other forms of ill-treatment. Concern over his physical integrity was expressed if he did not receive prompt and adequate medication.

1642. On 29 October 2003, the Special Rapporteur sent an urgent appeal, concerning **M. H. H.** (16 years old), a nomad belonging to the Ja'afra tribe. He was reportedly sentenced to "cross" amputation (amputation of the right hand and left foot) on 14 October 2003 by the Nyala Special court in Darfur, Sudan. He is said to have been convicted under article 167 of penal code (1991) for armed robbery (*hiraba*). He was reportedly arrested near Rehaid al-Birdi area, south west of Nyala, in August 2003 with five other individuals, who were acquitted.

1643. On 31 October 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Alrehaima Yousif Soulieman, M. A. A., Mohamed Ibraheam Mohamed, Alsadig Adam Ismaeal, Mohamed Yousif Ali, Alkhair Mohamed Ahmed, Ibraheam Ahmed Mohamed, Ahmed Mohamed Ibraheam, Ibraheam Mohamed Abdel Rahman, Adam Gamer Aldean, Hamad Alsharief, Hamid Mohamed Ibraheam, Mahmoud Abdella, Jibreal Adam Hamad, Awadella Adam Hamdan, Alzain Ahmed Ali, Makky Ahmed Mohamed, Abdella Shaigora, Asim Issa Mohamed, Ibraheam Azabain (omda), Taj Aldean Ismaeal Ahmed and Ahmed Hamid Mohamed**, all belonging to the Ma'alia tribe. They were reportedly arrested on suspicion of murder on 6 October 2003 by members of the armed forces in Abujabra, Garadaya and Adila areas. They were reportedly initially detained in Adila police station for 12 days without any official charges or questioning. It is alleged that two of them, namely Alrehaima Yousif Soulieman, aged 19, M. A. A., aged 16, were flogged on their backs, burned with cigarettes and hot metal poles on their hands, arms and chests, and beaten with sticks, in particular on their arms and legs, by approximately 10 officers. They are believed to have been subjected to this treatment to extract a confession. The other 20 detainees are also believed to have been subjected to ill-treatment. They have allegedly been kept in a small cell without ventilation or adequate illumination and were reportedly not given sufficient food. It is also alleged that they have been denied visits by their relatives. The 22 above-named detainees were reportedly transferred to Nyala prison on 21 October 2003, where they are alleged to be currently detained. The above-mentioned persons may be at risk of being sentenced to death if eventually convicted of murder.

1644. On 13 November 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, concerning **Suleiman Mohammed Idris, Daw al-Bait Omer Idris and Adam Dood Khamis**, the three of them from the Fur ethnic group. They were reportedly arrested on 21 September 2003 by men in army uniform in the town of Kabkabiya, in Darfur. Although it is thought that they may be currently held by army intelligence, no information about their whereabouts has reportedly been disclosed. In view of their reported incommunicado detention at an unknown place, fears were expressed that they may be at risk of torture or other forms of ill-treatment.

1645. On 21 November 2003, the Special Rapporteur sent an urgent appeal, concerning **Saad Ahmed Mohammed, Burma Abdel Rahman Masar, Adam Yasin Mohammad, Abdel Karim Ahmed Hido and Dirdima Bushra Hatala**, who were reportedly arrested on 1 April 2003 and accused of murder. It is alleged that while in detention at Rehaid al-Birdi police station, they were at risk of severe torture. Their cases were included in an urgent appeal sent by the Special Rapporteur on the question of torture on 16 July 2003. No response from the Government had been received. On 23 July 2003 they were reportedly transferred to Nyala for their trial. A medical examination allegedly conducted three months after the alleged torture reported that the defendants sustained marks on their bodies but that they were old. The above-named men were reportedly sentenced to death by hanging by a Specialized Criminal Court in Nyala, South Darfur, on 12 November 2003. At the beginning of the trial, they reportedly withdrew their confessions stating that they

were extracted from torture. It is alleged that under the procedures of the Specialized Criminal Court, withdrawn confessions may be used as evidence.

Follow-up to previously transmitted communications

1646. By letter dated 3 June 2003, the Government provided information concerning a joint urgent appeal sent with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on the situation of human rights in the Sudan on 2 May 2002.

1647. Concerning **Abdel Galeel Osman** (E/CN.4/2003/68/Add.1, para. 1708), and **Mahmoud Hashim Ahmed Ali** (ibid., para. 1709), they were arrested according to the National Security Forces Act 1999 as amended in 2001 under article 31 (1), were treated according to international standards, and had never been at risk of any sort of degrading treatment or torture. Ahmed Said Ahmed (ibid., para. 1708) had never been arrested.

Observations

1648. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Rights of the Child (CRC/C/15/Add.35, para. 35 and 70) that corporal punishment is widely practised, including within the family, schools and other institutions; that children have been victims of violence by, among others, the police; and that acts of torture and rape have been committed against children in the context of the armed conflict. Concerning penal sanctions against juveniles, the Committee recommended the end to the imposition of corporal punishment, including flogging, amputation and other forms of cruel, inhuman or degrading treatment of punishment.

Sweden

1649. By letter dated 7 August 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information according to which **Peter Anderson** died after having been arrested and restrained by four police officers in Örebro on 3 November 2000. The preliminary report of a post-mortem examination reportedly recorded signs of violence on his face, arms, legs and body as well as symptoms of death from asphyxia. It was reported that after his arrest, he laid face down on the ground with his hands cuffed behind his back, that one police officer sat on the back of his head and that another sat on his back, while two security guards allegedly held his legs. Peter Anderson reportedly then lost consciousness. He was allegedly taken to a hospital where he died shortly afterwards, as he was allegedly lying on his stomach fastened by straps to a bed and handcuffed.

1650. By letter dated 21 November 2003, the Government responded that the police officers put him on the ground, pushed him towards the ground and used handcuffs, to which Peter Anderson made forceful resistance. The officers started to uncuff him once he relaxed. As his lips had become blue and he started to breath heavily and lurch his body, the officers called an ambulance. He continued to lurch his body and tried to brake loose also when being put into the ambulance and at the

arrival at the hospital. Present officers and medical staff held him so that he could not use force. A decision was taken to further examine him and to transport him to another location within the hospital in a special bed. However, he stopped breathing and died during the transport. The Government further reported that a complaint was filed concerning his death on 3 November 2000 by the County Police Authority and that a further complaint was made by the deceased's brother concerning official misconduct and negligence causing death. An investigation was carried out. According to the autopsy results, the cause of the death could not be clearly established. Consequently, the prosecutor hereafter decided on 28 November 2001 not to pursue the investigation. No decision or judgement on criminal or disciplinary sanctions was taken against the involved police officers as there was no basis for any disciplinary action. The Government finally informed that the Division for Police Issues and Public Order and Security did not agree that this could be described as an execution. All police officers involved in the apprehension were identified, and it was established that they intervened within their scope of responsibility to maintain law and order under the chief constable's instructions.

Switzerland

1651. Par une lettre datée du 9 août 2003, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les droits de l'homme des migrants, a informé le gouvernement qu'il avait reçu des renseignements concernant **Gilbert Kouam Tamo**, un Camerounais retenu à l'aéroport de Zurich en attente de sa déportation, qui aurait reçu des coups de pied, de poing et de bâton de la part d'un groupe d'agents de police masqués qui seraient entrés dans sa cellule le 20 avril 2000. Ces faits se seraient déroulés en présence du directeur du centre de rétention. Plus tard, il aurait eu les mains et les pieds attachés et un casque aurait été serré sur sa tête. Ainsi immobilisé, il aurait reçu des coups de poing au visage. Il aurait ensuite été attaché à une chaise roulante et amené à un avion, où il aurait été attaché avec plusieurs ceintures à un des sièges. Il aurait également reçu des coups de poing dans l'avion. Avant le décollage, on aurait essayé de lui injecter un calmant. Durant le vol, il aurait été privé d'eau et de nourriture. Un examen médical dans un hôpital camerounais aurait confirmé, le 22 avril 2000, qu'il présentait plusieurs blessures au corps et au visage. Il aurait porté plainte en novembre 2000. Gilbert Kouam Tamo aurait par la suite reconnu avoir montré de la résistance envers les agents de police, mais, selon lui, parce qu'il craignait pour sa vie.

1652. Par lettres datées des 21 novembre et du 1^{er} décembre 2003, le gouvernement a précisé que ces allégations ne correspondaient que partiellement à la réalité. Comme Gilbert Kouam Tamo avait opposé une vive résistance à son renvoi, il avait été indispensable de recourir à certaines mesures de contrainte, qui n'avaient jamais dérogé au principe de proportionnalité. Le gouvernement a aussi informé qu'aucun calmant ne lui avait été injecté et qu'il n'avait pas été privé de nourriture ni de boisson. Dans le cadre de la procédure pénale initiée par son représentant légal, tous les fonctionnaires de police impliqués dans l'opération auraient été entendus au sujet des faits litigieux par les autorités d'instruction compétentes. À l'exception du chef de service du centre de détention de l'aéroport, toutes les personnes inculpées seraient des membres de la police cantonale de Zurich dont l'identité serait connue des autorités en charge de l'enquête. Le 5 décembre 2000, une plainte contre plusieurs inconnus ainsi que contre le chef de service du centre de détention de l'aéroport avait

été déposée devant le ministère public du canton de Zurich pour lésions corporelles simples, omission de prêter secours et abus d'autorité. L'enquête pénale avait été confiée au ministère public régional du canton de Zurich, qui l'avait suspendue par décision du 3 février 2003. Le recours contre la décision de suspension avait été rejeté le 12 septembre 2003 par le juge chargé des affaires pénales du district de Bülach et l'entrée en force de la décision n'aurait toujours pas été fixée. Aucune éventuelle sanction ni mesure disciplinaire n'avait été ordonnée dans l'attente de la décision passée en force dans le cadre de la procédure pénale. S'agissant de la plainte pour abus d'autorité, les autorités en charge de l'enquête pénale étaient parvenues à la conclusion que les fonctionnaires de police inculpés n'avaient agi ni dans le but d'obtenir un profit indu ni dans celui d'entraîner un préjudice contraire au droit. En outre, ils n'avaient pas fait recours à des moyens abusifs ou disproportionnés. S'agissant de la plainte pour lésions corporelles, les autorités avaient donné gain de cause aux inculpés invoquant la cause de justification liée à l'obligation de fonction. Quant à la plainte pour omission de secours, les autorités en charge de l'enquête étaient parties du fait que les blessures infligées par les agents n'allaient pas au-delà de contusions et d'éraflures et elles n'avaient pas jugé indispensable de fournir une assistance médicale et avaient estimé que les éléments permettant de conclure à la punissabilité des agents n'avaient pas été suffisants. Le gouvernement a également informé que le certificat médical présenté par Gilbert Kouam Tamo n'avait pas été établi au moment de son arrivée au Cameroun et que celui-ci n'avait pas été conduit immédiatement à l'hôpital mais avait passé une nuit en prison. Finalement, le gouvernement a mis à la disposition du Rapporteur spécial la jurisprudence et les directives relatives aux rapatriements sous contrainte par voie aérienne.

Appels urgents

1653. Le 19 juin 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, relatif à **Abdelmumen Mohamed Elzidani**, un Libyen membre d'une organisation libyenne de droits de l'homme, Human Rights Solidarity, qui aurait par le passé dénoncé les violations des droits de l'homme en Jamahiriya arabe libyenne. Il aurait déposé une demande d'asile le 13 novembre 2000 auprès des autorités suisses. Cette demande aurait été refusée le 4 décembre 2002. Selon cette décision, l'argumentation de sa demande d'asile, reposant sur le fait qu'il aurait hébergé des opposants politiques en juin et août 2000, serait invraisemblable. Il aurait été arrêté le 17 juin 2003 et conduit à la prison des îles à Sion. Au moment de cet appel, il se trouvait détenu à l'aéroport de Zurich dans l'attente d'être renvoyé en Jamahiriya arabe libyenne.

1654. Par une lettre datée du 16 juillet 2003, le gouvernement a répondu, le 4 décembre 2002, que l'Office fédéral des réfugiés (ODR) avait rejeté par décision la demande d'asile déposée par Abdelmumen Mohamed Elzidani et ordonné son renvoi en Jamahiriya arabe libyenne. La demande de réexamen urgente interjetée 20 heures avant son départ avait également été rejetée à la suite d'un nouvel examen minutieux de son dossier. L'ODR avait immédiatement envoyé les pièces sur lesquelles se fondait sa décision à la Commission suisse de recours en matière d'asile dans l'éventualité d'un recours. Aucun recours n'avait toutefois été déposé. Le gouvernement a indiqué que Abdelmumen Mohamed Elzidani était retourné en

Jamahiriya arabe libyenne muni de son passeport libyen et non accompagné le 19 juin 2003.

Syrian Arab Republic

Urgent appeals

1655. On 19 December 2002, 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, the Chairman-Rapporteur of the Working group on Arbitrary Detention and the Special Representative on human rights defenders, concerning an alleged peaceful demonstration held on 10 December 2002 before the National Assembly in Damascus and organized by the Syrian Kurdish Democratic Unity Party. In the framework of this demonstration, **Hassan Saleh** and **Marwan 'Uthman**, leading members of the Syrian Kurdish Democratic Unity Party, were among those who presented a memorandum demanding greater protection for the rights of people of Kurdish origin living in Syria. On 15 December 2002, Hassan Saleh and Marwan 'Uthman were reportedly arrested in Damascus, following an invitation for a meeting by the Minister of the Interior, and held incommunicado.

1656. By letter dated 22 May 2003, the Government responded that on 10 December 2002 that Hassan Saleh and Marwan 'Uthman had instigated acts of violence and provoked unrest in Damascus and distributed statements criticizing the policy of the country. The Government further informed that they were being tried before the courts.

1657. On 16 April 2003, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders and the Special Rapporteur on the independence of judges and lawyers concerning **Hassan Saleh** and **Marwan 'Uthman** regarding whom an urgent appeal was sent on 19 December 2002 (see above). According to new information received, they had been transferred from the Criminal Section to the Political Section of 'Adra Prison, to the north of Damascus, where it was assumed that they were held in solitary confinement. They had allegedly been denied visits by lawyers, relatives and doctors. Concerns were expressed for Hassan Saleh's health as he was reportedly suffering from chest pains and being denied medical treatment. According to the new information received, the Military Court changed the charge against both prisoners from "membership of an unauthorised organisation" to "inciting sectarian strife" and transferred the case to the Supreme State Security Court (SSSC), which had also added the charge of "attempting to sever a part of the Syrian territories". Concern was expressed over reports that the SSSC operates outside of the ordinary criminal justice system as it is only accountable to the Ministry of Interior. In addition, its verdicts are reportedly not subject to appeal and its trials are not conducted in accordance with the Code of Criminal Procedure.

1658. On 29 April 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working group on Arbitrary Detention concerning **Jamal Mahmud al-Wafa'i**, who was reportedly arrested by Syrian security forces at the border checkpoint near Hosaiba on 18 April 2003. He had reportedly been in exile in Iraq since the early 1980s. According to information received, **Fayzah 'Ali Shihab**

(f), **Maha Ahmad Qarah Qash** (f), **Mayyadah Muhammad Ghassan Benqasli** (f), **Fathiyyah Rajab Damur** (f), **Muhammad 'Adnan Ahmad Madlaj** and **Muhammad Ahmad Qashush**, all of whom were returning Syrian exiles, were also arrested at the Syrian-Iraqi border between 18 and 24 April 2003. It was unclear whether these six people were arrested after being allowed entry into Syria or at a border checkpoint. It was thought that the seven had been taken to military intelligence detention centres, where detainees allegedly held on the basis of their political motivations had previously been held incommunicado for long periods and allegedly tortured or ill-treated. The detainees have reportedly not been charged with any offence. All seven detainees are thought to have links to the unauthorized opposition group, the Muslim Brotherhood Organization.

1659. By letter dated 12 August 2003, the Government responded that Jamal Mahmud al-Wafa'I, Fayzah 'Ali Shihab, Maha Ahmad Qarah Qash and Mayyadah Muhammad Ghassan Benqasli arrived in Syria on 18 April 2003. They had been arrested in order to verify their status and based on information that they were members of proscribed organizations. Concerning Fathiyyah Rajab Damur, the Governments informed that she arrived in Syria on 9 April 2003 and arrested on the basis of information suggesting that she was a member of a proscribed organization. She was released once it had been established that she had no case to answer. Finally, the Government informed that Muhammad 'Adnan Ahmad Madlaj and Muhammad Ahmad Qashush had not been arrested.

1660. On 26 June 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers concerning **Abdel Rahman Shaghouri**, who was reportedly arrested by secret police agents without warrant on 23 February 2003 at a checkpoint between Qunaytra and Damascus. Although he had allegedly not been charged with any offence, it was thought that his detention could be linked to his accessing Internet sites giving political information about his country. He was reportedly denied access to his lawyer and relatives since his arrest. He was allegedly being held at the Military Security Branch prison in Damascus.

1661. By letter dated 15 September 2003, the Government responded that he was arrested for using the Internet to distribute articles to persons outside Syria, which was considered as a breach of State security. He was brought before the Higher State Security Court.

1662. On 30 June 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression concerning **Mohammed Mustafa, Khaled Ahmed 'Ali, Sherif Ramadhan, 'Amr Mourad, Salar Saleh, Hosam Muhammed Amin** and **Hussayn Ramadhan**, all Syrian Kurds, who were reportedly arrested on 25 June 2003 by members of the police and the security forces, during an alleged peaceful demonstration outside the Damascus headquarters of the United Nations Children's Fund (UNICEF). The demonstrators were reportedly calling for civil and political rights for the Syrian Kurdish population. The demonstration was reportedly dispersed violently by the security forces. The above-named persons were allegedly held in incommunicado detention and without charge at Mezze Police Station in Damascus.

1663. By letter dated 12 August 2003, the Government responded that these persons were treated well and had not been subjected to any form of ill-treatment.

1664. On 16 July 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working group on arbitrary detention concerning **Abd-el Razar Shoullar**, also known as '**Abu Sahker'** **Shoullar**, a 81 years-old-man, who was reportedly arrested on 4 June 2003 at Damascus airport on his return to Syria after 23 years' exile in Saudi Arabia. He was being held in incommunicado detention. His whereabouts remained uncertain but it was believed that he was being held at a Military Intelligence detention centre in Homs. He was reportedly suffering from senile dementia. His detention was allegedly based on the political activities of his family.

1665. On 12 August 2003, the Special Rapporteur sent an urgent appeal concerning **Maher Arar**, a dual Canadian/Syrian citizen, whose case was brought to your Excellency's attention in an urgent appeal sent on 12 February 2003. He was reportedly being interrogated by Syrian and foreign intelligence officers. He was reportedly beaten with sticks and cables across his feet and other parts of his body, subjected to electric shocks, painfully suspended in the 'dulab', or tyre, and hit with sticks, and deprived of sleep. He had reportedly been held in solitary confinement since he was deported to Syria from the United States of America in October 2002. Despite repeated requests, Canadian officials had reportedly not been permitted to meet him since 22 April 2003.

1666. On 10 September 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working group on arbitrary detention concerning **Khalil Sulayman**, an alleged Kurdish activist, who was reportedly arrested without charges by military intelligence personnel on 30 August 2003 at his workplace at the Department of Agriculture in the village of Tell al-Dhaman, in the Governate of Aleppo. He was reportedly subsequently taken to Damascus, where he was allegedly being held in incommunicado detention at a Military Intelligence detention centre.

1667. By letter dated 3 November 2003, the Government responded that he had been released on 20 September 2003.

1668. On 23 September 2003, 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 concerning **Mohammed Mustafa, Khaled Ahmed 'Ali, Sherif Ramadhan, 'Amr Mourad, Salar Saleh, Hosam Muhammed Amin and Hussayn Ramadhan**, in connection of whom an urgent appeal had been sent on 30 June 2003 (see above). According to the new information received, they had been moved to the political wing of 'Adra Prison, near Damascus, where they were allegedly being held in solitary confinement. Prior to their move, the men were allegedly subjected to torture for 23 days at the security branch of Mezze police station in Damascus. Their health was reportedly deteriorating. They allegedly appeared blindfolded and without legal representation in front of the Supreme State Security Court (SSSC). By the same urgent appeal, concern was also expressed over the situation of **Mas'oud Hamid**, who was reportedly arrested by political security officers on 24 July 2003. He had allegedly participated in the 25 June peaceful

demonstration to mark World Children's Day, outside the UNICEF headquarters in Damascus, at which the other seven men were arrested.

1669. By letter dated 14 November 2003, the Government responded that they had been sent for trial for committing unlawful acts. They were being held at Adara prison awaiting trial and were being well treated.

1670. On 5 November 2003, the Special Rapporteur sent an urgent appeal concerning '**Abdalla al-Malki**, a Canadian/Syrian national who was reportedly arrested in May 2002 upon his arrival at Damascus airport. He was allegedly held at a secret location until September or October 2003. It was believed that he was at that time being held in Sednaya prison, Damascus. He had reportedly not been granted access to his lawyers, relatives or representatives from the Canadian Consulate. While in custody he had allegedly been beaten with sticks and cables while hanged from a suspended tyre and subjected to electric shocks, beatings with cables all over his body and kicks on the head. His health had reportedly deteriorated. It was said that he was being held in connection with alleged terrorist activities, but he had allegedly not been charged with a recognizable criminal offence.

1671. On 6 November 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Faiq Kamangar**, an Iranian-American citizen who reportedly got the refugee status in the United States of America in 2000. He had travelled to Syria on 7 September 2003 to visit his family. He was reportedly arrested at Damascus Airport by members of the security forces on 3 November 2003 as he was returning to the United States. He was reportedly taken to the offices of the Syrian Bureau of Intelligence (Branch 279). It was thought that he could be at risk of being forcibly returned to the Islamic Republic of Iran, where serious fears had been expressed that he could be subjected to torture or other forms of ill-treatment.

1672. On 7 November 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right of freedom of opinion and expression concerning '**Abdel Rahman Shaghouri**, a detainee at Sednaya Prison in connection with whom a joint urgent appeal was sent on 26 June 2003 (see above). According to new information received, he had been subjected to torture while in custody before being transferred to Sednaya Prison, Damascus. Although it had been announced that his lawyer would be given access to him, he had allegedly been kept in incommunicado detention since his arrest. He was reportedly expected to be tried before the SSSC in December 2003.

1673. On 13 November 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Hasan Mustafa**, a Syrian Kurd silversmith, who was reportedly held incommunicado at an unknown location since his arrest on 18 October 2003 by officers of the Political Security Directorate. The officers reportedly came to the town of 'Ayn al-'Arab to question his relatives after *Al-Jazeera* and other media stations broadcasted information on the death in custody of his brother, Khalil Mustafa. Khalil Mustafa was reportedly arrested on 6 August 2003 and tortured while being held at the Military Intelligence Detention Centre in Aleppo. On 14 August 2003, his body was reportedly handed over to his family. According to reports, severe injuries and

bruises were visible on his corpse, including a leg broken in two places, a missing eye, and a head wound.

1674. On 12 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right of freedom of opinion and expression concerning **Arwad Muhammad 'Izzat Al-Buchi**, a Canadian/Syrian national who was reportedly held incommunicado in Sednaya prison. He had reportedly been arrested on 20 July 2002, following his return after 23 years in exile in Canada and Saudi Arabia. He had reportedly been held at the Palestine Branch of Military Intelligence in the capital Damascus, where he was allegedly subjected to torture, and was kept in solitary confinement for prolonged periods. On 1 April 2003, he was reportedly transferred to Sednaya prison. He had reportedly not been charged with any offence but it was thought that his suspected association with alleged members of the unauthorized opposition group the Muslim Brotherhood Organization could be the cause for his arrest and detention.

Follow-up to previously transmitted communications

1675. By letter dated 17 April 2003, the Government responded to an urgent appeal sent on 10 December 2002 concerning **Muhammad Sa'id al-Sakhri** and his family (E/CN.4/2003/68/Add.1, para. 1742) and informed that upon his arrest on 28 November 2002 he had been referred to the judicial authorities.

Observations

1676. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Rights of the Child (CRC/C15/Add.212, para. 36, 52) that corporal punishment is not prohibited by law, that strict limitations to pre-trial detention do not seem to be observed in practice, and that conditions in detention centres for juveniles are often harsh.

Tajikistan

Urgent appeal

1677. On 11 June 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working-Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers regarding **Shamsuddin Shamsuddinov**, the deputy chair of the Islamic Renaissance Party of Tajikistan. He was reportedly arrested on 30 May 2003 at his home in Chkalovsk by unknown persons. He was allegedly last seen at the Chkalovsk airport. On 4 June 2003, the Chief Prosecutor reportedly informed the press that he had been arrested and had been accused of having committed serious crimes. He was reportedly being held at a detention centre in Dushanbe, and had been permitted neither family visits nor access to legal counsel.

Thailand

1678. By letter dated 18 September 2003, sent jointly with the Special Rapporteur on violence against women and the Special Rapporteur on the human rights of migrants, the Special Rapporteur advised the Government that he had received

information according to which **Sandar Hlaing**, a female Burmese migrant worker who was assaulted, raped and stabbed to death on 31 August 2003 by three men in Mae Sot, on the Thai border with Burma. One of three perpetrators was reportedly identified as the factory security guard, who is a Thai national. No serious action had allegedly been taken by the police, and there were reportedly indications that the case would not be treated seriously. After hearing about this murder, on 2 September 2003, about 1000 Burmese workers from the Ki Found knitting factory reportedly went on strike and attacked the security guard. The security guard was reportedly rescued by the management and handed over to the police for questioning. In late May 2003 a similar incident had already occurred when six Burmese workers were killed in Mae Sot, but the only person charged with murder, again a Thai national, was reportedly released on bail.

Urgent appeals

1679. On 14 July 2003, 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 Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning 11 democracy activists from Myanmar in Thailand—UNHCR-recognized refugees **Moe Hein, Zeya Win, Htay Lwin, Saw Naing Kyaw** and **Khin Thandar Soe**, and UNHCR-recognized asylum-seekers **Khin Maung San, Zaw Min Latt, Soe Thu Lwin, Kyaw Kyaw, Ko Latt** and **Ko Ko Naing**—who had reportedly been arrested in Bangkok on 26 June 2003 and charged with illegal entry into Thailand. The Thai authorities had reportedly indicated that the activists could be deported to Myanmar.

1680. By letter dated 29 August 2003, the Government responded that the arrest had been carried out strictly under the Immigration Act 1979 and did not relate to their political affiliation or activity. They were subsequently transferred to the detention centre of the Immigration Bureau in Bangkok, where they were held at that time pending determination of the case. The Government further reported that as Thailand is not party to the 1951 Convention Relating to the Status of Refugees, it has no obligation to recognize the status of persons of concern (POC) and retains the right to treat POCs in accordance with the provisions of the Thai immigration law. The Government also explained that the Thai authorities always take into careful consideration when discharging their duty and that they will not forcibly deport anyone if it is evident that there is a well-founded fear of persecution or risk of being subjected to torture upon return.

1681. On 2 December 2003, the Special Rapporteur sent an urgent appeal concerning **Sok Yoeun**, who reportedly fled Cambodia in September 1999 and who was reportedly granted refugee status by UNHCR in November 1999. He was allegedly arrested on 24 December 1999 after a Thai politician issued a public demand for Sok Yoeun's return to Cambodia on the grounds that he was a "terrorist". He was reportedly initially sentenced to six months' imprisonment for entering the country illegally. It is alleged that although his sentence expired on 26 June 2000, he had been kept in detention pending the outcome of a request for his extradition to Cambodia. In November 2002, a court reportedly ordered him to be returned to Cambodia, allegedly following protracted extradition hearings. On 28 November 2003, an appeal court reportedly rejected his appeal against the decision to extradite

him. His health had deteriorated since his arrest in 1999. He had reportedly been moved into a cell housing over 20 other people, all of whom were allegedly suffering from health problems as well.

Togo

Appels urgents

1682. Le 7 mars 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, concernant **Mazama Katassa**, membre de l'Union des forces du changement (UFC), un parti de l'opposition dit pacifique, qui aurait été arrêté à Sotouboua le 26 février 2003. Le 1^{er} mars 2003, il aurait été transféré dans les locaux de la gendarmerie de Kara où, au jour de cet appel, il serait détenu au secret. D'autres membres de l'UFC, dont **Marc Palanga**, auraient également été arrêtés et soumis à des mauvais traitements par des membres de l'armée togolaise.

1683. Le 26 juin 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Président-Rapporteur du Groupe de travail sur la détention arbitraire et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, concernant **Colombo Kpakpabia**, journaliste à l'hebdomadaire *Nouvel Écho*, **Dimas Dzikodo**, éditeur en chef du journal *L'Événement*, et **Philippe Evegno**, directeur de publication du même journal, qui auraient été arrêtés entre le 14 et le 15 juin 2003. Il était allégué qu'à la date de cet appel Colombo Kpakpabia était détenu au secret à la Direction générale de la police à Lomé. Dimas Dzikodo et Philippe Evegno auraient été tenus au secret pendant quatre jours. Le 19 juin, les deux journalistes auraient participé à une conférence de presse organisée par les autorités. Pendant la conférence de presse, Dimas Dzikodo aurait présenté des signes de faiblesse et se serait plaint de mauvais traitements supposément reçus pendant sa détention au secret.

1684. Par une lettre datée du 9 septembre 2003, le gouvernement a informé qu'ils avaient été poursuivis pour tentative de diffusion de fausses nouvelles et tentative de trouble de l'ordre public et écroués suivant mandat de dépôt le 24 juin 2003. Le 22 juillet 2003, un tribunal déclara Philippe Avegnon (Evegno) et Koffi (Colombo) Kpakpabila non coupables de ces faits. Ils furent relaxés des fins de poursuite sans peine ni dépens. Par ailleurs, Dzilan K. Dodji (Dimas Dzikodo) fut déclaré coupable de tentative de diffusion de fausses nouvelles et condamné à une amende. Un appel avait été relevé contre ce jugement.

Tunisia

1685. Par une lettre datée du 30 décembre 2002, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur l'indépendance des juges et des avocats et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a informé le gouvernement qu'il avait reçu des renseignements selon lesquels **Mokhtar Yahiaoui**, juge, président du Centre tunisien pour l'indépendance de la justice (CTIJ) et membre du comité de liaison de l'Association internationale de solidarité avec les prisonniers politiques (AISPP),

aurait été agressé et enlevé par des agents de police en civil le 11 décembre 2002, alors qu'il se rendait chez son avocat à Tunis. Suite à cette agression, il aurait été hospitalisé. Par ailleurs, le cabinet de M^e **Bhiri**, son avocat et membre du bureau exécutif du CTIJ, et de sa femme, M^e **Akermi**, secrétaire générale de l'AISPP, auraient été encerclés par un important dispositif policier le 13 décembre 2002. À cette occasion, les deux avocats auraient été agressés par des agents de police et **leur enfant de 13 ans** frappé au visage. **Lassad Jouhri**, membre fondateur de l'AISPP, présent au moment des faits, aurait été frappé et hospitalisé. Plusieurs avocats, dont M^{es} **Abderraouf Ayadi**, **Sihem Rostom**, **Néjib Ben Youssef**, **Mokhtar Tritfi**, **Mohamed Goumani** et **Youssef Rezui**, auraient par la suite également été agressés ou autrement empêchés d'accéder au cabinet de leurs confrères, M^{es} Bhiri et Akermi. En outre, M^e **Samir Dillou**, membre fondateur de l'AISPP, aurait été arrêté à son cabinet le 13 décembre 2002 et interrogé pendant plusieurs heures. Il aurait reçu un coup à la tête qui lui aurait fait perdre connaissance. Finalement, il était allégué qu'un certain nombre de personnes, dont **Abdallah Zouari** et M^e **Said Mechichi**, auraient été empêchées de participer à la célébration du cinquante-quatrième anniversaire de la Déclaration universelle des droits de l'homme, organisée par la Ligue tunisienne des droits de l'homme (LTDH) durant la soirée du 13 décembre 2002.

1686. Par une lettre datée du 28 juillet 2003, le gouvernement a répondu qu'aucune plainte n'avait été déposée quant à la supposée agression de Mokhtar Yahiaoui. Celui-ci aurait reconnu que l'investigation dont il faisait l'objet suite à sa participation à une réunion non autorisée était «un dialogue plus qu'un interrogatoire». Concernant M^{es} Bhiri et Akermi, leur enfant, Lassad Jouhri et M^e Samir Dillou, le gouvernement a indiqué que les allégations d'agression étaient sans fondement. Il n'y avait pas eu de plainte de la part des personnes supposément agressées ni de la part de possibles témoins oculaires. Par ailleurs, s'il était vrai qu'une plainte avait été déposée le 26 décembre 2002 par un avocat au nom de plusieurs de ses confrères, le gouvernement a informé que M^e Souilhi nia dans sa plainte déposée le 20 janvier 2003 avoir été agressé et avoir chargé qui que ce soit de déposer une plainte en son nom. Le gouvernement a également précisé que le CTIJ et l'AISPP n'avaient pas d'existence légale en Tunisie. Quant à la célébration organisée par la LTDH le 13 décembre 2002, le gouvernement a répondu que cette organisation était sous le coup d'une décision judiciaire et n'avait pas le droit d'entreprendre des initiatives de cette nature. Aucune plainte portant sur de l'harcèlement ou des agressions n'avait été déposée par Mokhtar Trifi, président de la LTDH. Finalement, concernant Abdallah Zouari, le gouvernement a informé qu'il était sous le coup d'une décision judiciaire de contrôle administratif qui avait fixé son lieu de résidence à Zarzis.

1687. Par une lettre datée du 17 septembre 2003, le Rapporteur spécial a informé le gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

1688. **Hamadi Jebali**, ancien rédacteur de la publication islamiste *Al Fajr* (L'Aube), aurait été condamné par un tribunal militaire à 16 années d'emprisonnement à l'issue d'un procès supposément inéquitable. Il serait détenu continuellement en isolement depuis 1995, dans une cellule sombre ne possédant qu'une petite fenêtre, dans la prison de Nadhour, à Bizerte. Son épouse et ses filles seraient autorisées à lui rendre visite une fois par semaine pendant 15 minutes. En outre, des visites seraient supprimées sans qu'aucune raison ne soit donnée à la

famille. Les visites avec contact lui seraient interdites. En janvier 2003, il aurait entamé une grève de la faim qui aurait duré cinq semaines et demie pour protester contre ses conditions de détention. Cependant, rien n'aurait été fait pour les améliorer et il se trouverait dans un état d'extrême faiblesse.

1689. **Lotfi Ferhat** aurait été arrêté le 2 août 2000 au port de La Goulette, dans la banlieue de Tunis, et détenu dans les locaux du Ministère de l'intérieur jusqu'au 15 août 2000. Ses proches n'auraient pas été informés de son lieu de détention. Au cours de celle-ci, il aurait été suspendu par les pieds à une poulie et soumis à la méthode dite du *baño*, qui consiste à plonger la tête de la victime dans un seau d'eau sale. Il aurait aussi été battu et contraint de rester dans des positions contorsionnées pendant de longues périodes. On l'aurait également menacé d'arrêter et de torturer sa femme. Il aurait été forcé de signer une déclaration dans laquelle il avouerait appartenir à un groupe clandestin lié à Ennahda, un parti politique dont la reconnaissance légale aurait été refusée depuis 1989, et avoir suivi un entraînement militaire en Afghanistan. Le 31 janvier 2001, en même temps que 11 autres personnes jugées par défaut, il aurait été reconnu coupable par un tribunal militaire de Tunis d'activités terroristes et d'appartenance à une organisation terroriste opérant à l'étranger. Le tribunal aurait fondé sa décision sur les déclarations que Lotfi Ferhat aurait faites sous la contrainte, aurait refusé de prendre en considération le fait qu'il avait rétracté ses «aveux» et n'aurait pas ordonné d'enquête sur ses allégations de torture. Lotfi Ferhat aurait été condamné à sept ans d'emprisonnement et cinq ans de surveillance administrative. La sentence aurait été confirmée par la cour de cassation le 30 mai 2001.

1690. **Mourad Boughanmi**, membre d'*Ennahda* condamné à une longue peine de prison au début des années 1990 pour avoir participé à une manifestation non autorisée, aurait fait l'objet d'un diagnostic d'hépatite B en 2001. Il aurait contracté la maladie par des seringues infectées. Les autorités de la prison de Borj Erroumi, près de Bizerte, auraient refusé de le transférer à l'hôpital, malgré les demandes de sa famille. Suite à l'interruption d'un traitement médical qu'il aurait reçu pendant trois mois, il n'aurait bénéficié d'une visite médicale que tous les six mois. Il est allégué que le directeur de la prison aurait tenté de faire signer par sa mère un document déclarant que son fils était bien traité. Le 18 septembre 2002, il aurait été transféré à la prison du 9-Avril où il serait incarcéré avec 300 prisonniers et prévenus dans une cellule qui ne posséderait que deux toilettes et trois fenêtres.

1691. Le Rapporteur spécial a reçu des renseignements complémentaires sur la situation des étudiants qui auraient été arrêtés en février 2003 à Zarziz et qui furent l'objet d'un appel urgent transmis le 19 février 2003 (voir par. 1696). Selon les nouveaux renseignements reçus, **A. B.**, 17 ans, **Abdelghaffar Ben Guiza**, **Amor Rached**, **Ridha Hadj Brahim**, **Amor Chalendi**, **Hamza Mahroug** et **Ayoub Sfaxi** auraient comparu devant le juge d'instruction du 11^e bureau du tribunal de première instance de Tunis les 3 et 5 mars 2003 et auraient été accusés d'association de malfaiteurs, participation à des réunions non autorisées, vol et acquisition de produits pour la fabrication d'explosifs. Depuis cette date, ils n'auraient plus été entendus par un juge. Leurs avocats auraient saisi le procureur de la République le 19 février 2003 d'une plainte pour violation des délais de garde à vue et détention au secret. Cependant, le juge n'aurait pas consigné ces observations. Une deuxième plainte déposée le 14 juin 2003 n'aurait pas non plus été prise en considération. Bien que les

prévenus auraient déclaré avoir été arrêtés le 8 février 2003 à Zarziz, les procès-verbaux de l'instruction militaire feraient état d'une arrestation effectuée le 26 février 2003 à Tunis. Abderrazek Bourguiba n'aurait pas été transféré dans un établissement pénitentiaire pour mineurs et serait emprisonné avec des adultes. De plus, les sept personnes citées ci-dessus auraient déclaré au juge avoir été victimes de mauvais traitements et de torture dans les locaux de la sécurité de l'État jusqu'à ce qu'ils auraient signé des procès-verbaux dont ils n'auraient pas pu lire le contenu.

1692. Par une lettre datée du 17 septembre 2003, le Rapporteur spécial, conjointement avec le Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, a informé le gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

1693. **Khedija Cherif** (f), membre fondateur du Conseil national pour les libertés en Tunisie (CNLT) et de l'Association tunisienne des femmes démocrates (ATFD), aurait été interceptée par des agents de police en civil le 1^{er} mars 2001 alors qu'elle se rendait à une réunion du CNLT. Ceux-ci l'auraient informée qu'elle n'était pas autorisée à participer à la ladite réunion et l'aurait insultée, giflée et frappée lorsqu'elle aurait protesté contre cette interdiction. Le 10 mars 2001, alors qu'elle venait de quitter le palais de justice, elle aurait été bousculée dans les escaliers et traînée au sol.

1694. **Souhayr Belhassen** (f), vice-présidente de la Ligue tunisienne des droits de l'homme, aurait été agressée par des agents de police de Tunis le 14 avril 2001, à son retour de Genève, où elle aurait participé à la session de la Commission des droits de l'homme et où elle aurait eu des entretiens avec des représentants de l'Union européenne. À sa sortie de l'aéroport de Tunis, deux agents de police habillés en civil l'auraient insultée et violemment attaquée et auraient confisqué ses documents. Elle aurait tenté de porter plainte mais la police n'aurait pas accepté de prendre en compte sa déposition.

1695. Par une lettre datée du 8 octobre 2003, le Rapporteur spécial a rappelé au gouvernement un certain nombre de cas qu'il avait envoyés en 2002, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

1696. Le 18 décembre 2002, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire, concernant **Naour Fadhel Ben Hédi**, qui aurait été arrêté chez lui à Houmt Souk-Djerba, à Tunis, le 16 décembre 2002, sans qu'aucune raison n'ait été donnée. Le même jour, il aurait téléphoné à sa famille qui réside en Suisse et leur aurait indiqué qu'il était détenu au Ministère de l'intérieur. Depuis lors, sa famille n'aurait plus reçu aucune nouvelle de lui.

1697. Par une lettre datée du 31 mars 2003, le gouvernement a informé que Naour Fadhel Ben Hédi avait été arrêté le 21 décembre 2002 dans le cadre d'investigations relatives à un attentat terroriste. Sa libération avait été ordonnée par le tribunal de première instance de Tunis le 25 décembre 2002. Le gouvernement a garanti que les investigations s'étaient déroulées dans le respect des règles de procédure prévues par

la législation tunisienne, qui sont en accord avec les normes internationales et qu'aucune plainte pour torture ou autres formes de mauvais traitements n'avait été enregistrée. Une enquête avait en outre confirmé que les conditions de détention du prévenu avaient été conformes aux dispositions de la loi en vigueur.

1698. Le 19 février 2003, le Rapporteur spécial a envoyé un appel urgent concernant **Walid Ben Amor, M. B.**, 17 ans, **Mohsen Mahroug, Ahmed Friia, Sami Nouiri** et d'autres jeunes étudiants qui se trouveraient en détention au secret depuis leur arrestation, le 5 février et les jours suivants, à Zarziz, pour appartenance à une organisation non autorisée. Ils auraient été initialement détenus à la gendarmerie de Ben Guerdane et transférés par la suite à *Amn ad-dawla*, la Direction de la sécurité d'État, au Ministère de l'intérieur à Tunis. Leurs familles n'auraient pas été informées de leur lieu de détention. En outre, les jeunes n'auraient pas encore été présentés devant un juge et n'auraient pas eu accès à leurs avocats.

1699. Le 14 avril 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, relatif à **Zouhair Yahyaoui**, fondateur et animateur du site TUNeZINE consacré aux libertés fondamentales en Tunisie, et au sujet duquel un appel urgent conjoint avait été envoyé le 6 juin 2002. Le gouvernement avait répondu à cet appel urgent par une lettre datée du 22 août 2002 (E/CN.4/2003/68/Add.1, par. 1765 et 1766). Selon de nouveaux renseignements reçus, Zouhair Yahyaoui aurait entamé une grève de la faim et n'arriverait plus à se déplacer de manière autonome. Il aurait déjà été en grève de la faim pendant deux semaines en janvier 2003 pour protester contre ses conditions de détention. Son état de santé se serait détérioré de manière alarmante. En outre, les persécutions et les mesures punitives dont il ferait l'objet se seraient notamment multipliées depuis le rassemblement de solidarité organisé devant la prison de Borj El Amri le 6 février 2003. La nourriture que lui enverrait sa famille serait régulièrement détournée, et celle qui lui parviendrait serait délibérément souillée par les gardiens. Toute lecture lui serait interdite, sa correspondance serait confisquée et sa promenade quotidienne supprimée. Il aurait par ailleurs été mis au cachot avec privation totale de nourriture pendant deux jours à la suite des protestations de sa famille concernant les conditions de visite.

1700. Le 15 juillet 2003, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire, concernant **Naouar Mohammed ben Hedi**, résidant en Suisse, qui aurait été arrêté le 5 juillet 2003 à son arrivée à l'aéroport de Djerba par des policiers. Aucun mandat d'arrêt n'aurait alors été montré. À la date de cet appel, il aurait été détenu au secret au Ministère de l'intérieur à Tunis.

1701. Le 4 novembre 2003, le Rapporteur spécial a envoyé un appel urgent concernant **Lotfi Idoudi**, un détenu de la prison du 9-Avril de Tunis, qui se serait plaint à l'administration pénitentiaire de fortes douleurs à la tête le 18 octobre 2003. L'accès à un médecin lui aurait été refusé. Il aurait été hospitalisé le 25 octobre 2003 au service de neurochirurgie du Centre national de neurologie, à Tunis. Il aurait eu besoin d'une intervention chirurgicale urgente en raison d'un anévrisme d'une artère principale dans le cerveau avec une hémorragie interne. Les médecins traitants auraient communiqué qu'en raison de la délicatesse d'une telle intervention ils

recommandaient le transfert de Lotfi Idoudi à une clinique privée. Les autorités carcérales de la prison du 9-Avril auraient initialement refusé d'effectuer le paiement pour ce transfert. Lotfi Idoudi aurait finalement subi deux opérations chirurgicales à la clinique neurologique de la Soukra les 1^{er} et 2 novembre 2003. Il se trouverait au moment de cet appel dans le coma. Lotfi Idoudi aurait été arrêté en 1991. Après son arrestation, il aurait été torturé par des agents des forces de la sécurité, et il en garderait encore des séquelles.

1702. Le 3 décembre 2003, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, concernant la situation de **Bourouaoui Makhlouf, Habib Ellouz, Khaled Baccouche, Ridha Saïdi, Mokdad El Arbaoui, Ali Hrbi, Mohamed Néjib Ellouati, Chokri Bahria, Abdel Hamid Jelassi, Lofti Senoussi et Abdallah Idrissa**, qui seraient emprisonnés en raison de leur militantisme islamiste. Ces personnes, auparavant détenues à Mahdia, El Houareb, Messadine ou Tunis, auraient été transférées fin octobre 2003 à la prison de Bordj El Amri, où elles se trouveraient depuis lors isolées dans des cellules individuelles de 2 mètres de long et 1,5 mètre de large. Ces cellules seraient dépourvues de robinets et de toilettes et ne seraient équipées que d'une seule paillasse. Ces cellules n'auraient pas accès à la lumière naturelle et ne seraient que faiblement éclairées par une lampe se trouvant dans le couloir qui diffuserait un peu de lumière à travers un trou dans la porte. Les détenus ne seraient autorisés à sortir de ces cellules que durant une promenade quotidienne en solitaire. Celles-ci ne dépasseraient pas cinq minutes. En outre, les détenus ne pourraient se rendre aux toilettes qu'une seule fois par jour. Le seul contact permis aux détenus serait avec le gardien de la cellule. Par ailleurs, les détenus seraient privés de journaux, livres et télévision et il leur serait interdit d'avoir du papier ou de quoi écrire. Il est allégué que certaines des personnes détenues dans ces conditions auraient contracté des pathologies graves et des infections malignes. Les personnes nommées ci-dessus auraient initié une grève de la faim au début du mois de novembre comme forme de protestation contre leur emprisonnement et les conditions de détention décrites ci-dessus. D'après les renseignements reçus, malgré leur état de faiblesse et les maladies de certains d'entre eux, les détenus n'auraient pas reçu de soins médicaux adéquats.

Suite donnée aux plaintes signalées dans des communications précédentes

1703. Par une lettre datée du 10 janvier 2003, le gouvernement a répondu à un appel urgent transmis le 23 juillet 2001 concernant **Samir Dilou** (E/CN.4/2002/76/Add.1, par. 1591). Le gouvernement a informé qu'il n'avait pas été emprisonné pour ses activités syndicales mais pour mise à feu d'un local public, complot et agression d'un fonctionnaire, tentative d'homicide volontaire avec préméditation et maintien d'une association illégale extrémiste, terroriste qui prône la haine religieuse et raciale et le recours à la violence. Les poursuites et condamnations judiciaires dont il avait fait l'objet s'étaient déroulées conformément avec la loi. Il avait été nouvellement arrêté le 18 juillet 2001 après avoir fait l'objet d'un avis de recherche. Après vérification que cet avis concernait des poursuites qui avaient déjà abouti à un jugement, il avait été remis en liberté 24 heures plus tard.

1704. Par une lettre datée du 10 janvier 2003, le gouvernement a répondu à un appel urgent conjoint transmis le 4 février 2002 concernant **Hamma Hammami**,

Samir Taamallah, Ammar Hamroussia et Abdeljabbar Maddouri

(E/CN.4/2003/68/Add.1, par. 1763). Le gouvernement a informé que leur séjour en prison s'était déroulé dans des conditions normales telles que spécifiées par la législation tunisienne régissant les prisons, laquelle est conforme aux normes internationales applicables en la matière. Le gouvernement a également informé que, le 4 septembre 2002, Hamma Hammami et Samir Taamallah avaient bénéficié d'une libération conditionnelle pour raisons humanitaires. Ammar Hamroussia et Abdeljabbar Maddouri avaient bénéficié d'une libération conditionnelle pour les mêmes raisons le 5 novembre 2002.

1705. Par une lettre datée du 31 mars 2003, le gouvernement a répondu à un appel urgent conjoint transmis le 19 septembre 2002 concernant **Kamel Hamzaoui** (ibid., par. 1772). Le gouvernement a informé qu'au cours de son incarcération il avait bénéficié de tous les examens médicaux et des soins appropriés nécessités par son état de santé. Le gouvernement a aussi informé qu'il avait été mis en liberté conditionnelle pour des raisons humanitaires le 5 novembre 2002.

1706. Par une lettre datée du 17 juillet 2003, le gouvernement a répondu à un appel urgent conjoint transmis le 19 septembre 2002 concernant **Othman Jhinaoui** (ibid., par. 1773). Le gouvernement a précisé que lui et sa famille avaient été impliqués dans 187 affaires judiciaires et a informé qu'il était en train de purger sa peine dans une cellule collective. Il bénéficiait d'un suivi médical régulier et recevait des visites des membres de sa famille et de ses proches. Il avait refusé de recevoir des visites médicales les 13, 16 et 17 septembre 2002. Il avait aussi décliné la demande de son avocate de lui rendre visite le 20 septembre 2002. Celle-ci n'avait pas été en mesure de le rencontrer le jour suivant en raison de son transfert à un autre établissement pénitentiaire, afin de l'éloigner de ses frères partageant la même cellule que la sienne et sur lesquels il aurait exercé des pressions afin qu'ils s'associent à sa grève de la faim. Ses condamnations judiciaires ainsi que ses conditions de détention étaient conformes aux lois tunisiennes et normes internationales régissant la matière. En ce qui concerne le décès de Abderrahman Jhinaoui, le gouvernement a informé que sa mort était survenue des suites d'une insuffisance rénale et après avoir été hospitalisé au mois de mars 2001. L'autopsie ayant démontré que le décès était naturel, le juge d'instruction avait décidé de classer l'affaire pour absence d'infraction.

1707. Par une lettre datée du 13 octobre 2003, le gouvernement a répondu aux cas transmis par le Rapporteur spécial par une lettre datée du 2 septembre 2002 (ibid., par. 1754 à 1762) et rappelés dans sa lettre du 8 octobre 2003. Le gouvernement a assuré que la loi qui régit les séjours en prison est en totale conformité avec les normes internationales en la matière. Durant son incarcération, le détenu est tenu de respecter les dispositions légales et réglementaires régissant l'établissement pénitentiaire dans lequel il est placé. Le détenu qui manque à ses obligations s'expose aux sanctions disciplinaires prévues par la loi, parmi lesquelles le confinement en cellule individuelle. Celle-ci est équipée des installations sanitaires nécessaires et dotée de fenêtres permettant l'éclairage et l'aération nécessaires. Le pouvoir disciplinaire appartient à la commission de discipline de la prison, qui est tenue d'observer les principes de proportionnalité et d'impartialité. Le gouvernement a en outre informé que le confinement constitue une mesure exceptionnelle qui ne dépasse pas les 10 jours. Le détenu continue de jouir de ses droits et reste sous contrôle médical. Les règles de procédure pénale permettent au détenu de saisir le juge

d'exécution des peines, qui peut consulter le registre spécial de discipline et intervenir auprès de l'administration de la prison en faveur du détenu.

1708. Concernant **Ali Larayedth** (ibid., par. 1756), le gouvernement a informé qu'il n'a jamais fait l'objet de mauvais traitements.

1709. Concernant **Mohamed Ayari** (ibid., par. 1761), le gouvernement a informé que l'agent de police qui l'avait violenté avait été condamné par la chambre criminelle de la cour d'appel de Tunis, le 3 avril 2002, à un an et quatre mois d'emprisonnement. Une indemnité avait été décidée au profit de Mohamed Ayari.

1710. Concernant Abdellatif **Bouhjila** (ibid., par. 1762), le gouvernement a informé qu'il n'avait jamais fait l'objet de mauvais traitements.

1711. Concernant les décès de **Belgacem Yaacoubi** (ibid., par. 1757), **Riadh Bouslama** (ibid., par. 1758), **Hassan Azouzi** (ibid., par. 1759) et **Mohamed Ben Jannet** (1760), le gouvernement a informé que les informations judiciaires ouvertes au sujet de ces cas avaient révélé que ces décès étaient consécutifs à une mort naturelle.

Observations

1712. Le Rapporteur spécial regrette que le gouvernement ne lui a pas encore transmis une invitation pour visiter la Tunisie. Une demande pour cette invitation avait été envoyée à plusieurs reprises depuis 1998. Par sa lettre du 16 octobre 2003, le Rapporteur spécial a réitéré son intérêt pour visiter le pays.

1713. Le Rapporteur spécial voudrait attirer l'attention sur les préoccupations exprimées par le Comité des droits de l'enfant (CRC/C/15/Add.181, par. 45) concernant des cas de détention et de maltraitance d'enfants, ainsi que de détention de mineurs avec des adultes, ce qui se serait traduit par des sévices sexuels ou d'autres mauvais traitements.

Turkey

1714. By letter dated 23 July 2003, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by letters dated 29 August 2003 and 26 November 2003.

1715. **S.B.**, aged 15, and **Orhan Armutçi**, who works for the pro-Kurdish newspaper *Özgür Halk*, were reportedly arrested in January 2002 in connection with activities of the Kurdistan Workers' Party (PKK) in Bingöl. During his detention, S. B. was allegedly blindfolded, forced to lie in deep snow, given electric shocks and sprayed with pressurized water. He was reportedly released on 11 January 2002. Orhan Armutçi was allegedly subjected to a similar treatment.

1716. **Yüksel Azak**, a distributor for the pro-Kurdish newspaper *Yedinci Gündem* and member of the Human Rights Association (IHD) and the pro-Kurdish People's Democracy Party (HADEP) in Bingöl, was reportedly arrested on 11 January 2002 and held at the Anti-Terror Branch of Police Headquarters in Bingöl until he was

released upon a prosecutor's order on 14 January 2002. During his detention he was reportedly given electric shocks to his toes and genitalia and had a plastic bag placed over his head. He was reportedly taken to a hospital, but the police allegedly stayed in the room while he was being examined. The doctor allegedly looked for visible wounds, which he did not have. When he was brought before the prosecutor he reportedly had a dry throat and muscles pain, vomited blood and was feeling unwell. His formal complaint about the treatment he was allegedly subjected to was reportedly not accepted because he did not obtain a medical report.

1717. **R.D.**, a minor, was reportedly arrested in Izmir on 28 January 2002 on suspicion of theft and brought to the Office of Public Security, Department for Theft and Fraud. His family was allegedly not notified of his detention. While in custody, he was reportedly severely beaten, given electric shocks to his penis and toes, beaten on the head, strangled, squeezed by the testicles and penis, and deprived of food, drink and use of the toilet. When he was brought before the prosecutor prior to his release, his lawyer allegedly noticed that he seemed exhausted and that he had problems moving his arms and legs. On 1 February 2002, he was reportedly detained again by police officers from the same team. During this second detention, he was reportedly beaten and punched in the stomach and his hair was pulled. A decision not to open a case against the alleged perpetrators was allegedly issued by the office of the prosecutor, but the Izmir Bar Association allegedly appealed against this decision.

1718. The Government reported that none of his medical reports dated 28 and 29 January 2002 and 1 February 2002 indicated any trace of torture or ill-treatment.

1719. **Orhan Kop** was reportedly arrested on 5 February 2002 by a group of 50 masked Romanian police on his way to work in Romania, where he had applied for asylum. He reportedly fainted when the police sprayed gas into his face. Unconscious, he was subsequently deported to Turkey as the alleged representative of the PKK for Romania. He reportedly regained consciousness at the Anti-Terror Branch of Police Headquarters in Istanbul, where he was allegedly insulted, kicked and slapped and had his hair torn out. He allegedly had cold water poured on him, had his testicles squeezed, and he was reportedly given electric shocks in order to make him confess to links with PKK. When he was brought before a prosecutor and a judge, he was reportedly unable to stand on his feet. He was reportedly remanded to Bayrampaşa Prison.

1720. The Government reported that he went on hunger strike while in custody and that he underwent medical treatment as for an upset stomach. None of his medical reports dated 6, 7 and 8 February 2002 indicated any trace of torture or ill-treatment. An investigation was opened upon his complaint, but a decision not to prosecute was given on 22 October 2002.

1721. **V. Ö.**, aged 15, was reportedly arrested on suspicion of criminal offences in Buca Kuruçeşme in the province of Izmir, on 18 February 2002. His head was allegedly hit against the wall and he was allegedly beaten and kicked, stripped naked, hosed with cold water and made to stand in the cold and threatened with electric shocks.

1722. The Government reported that an investigation was initiated upon V.Ö.'s complaint of torture, but that it resulted in a decision not to prosecute since the injuries noted in the medical reports were understood to have occurred during his attempted escape from the police. The Heavy Penal Court in Karşıyaka overruled the decision of and a lawsuit was filed at the Court of First Instance against the suspects on the grounds of abuse of authority. The case was still under way.

1723. **Er. E.**, aged 16, was reportedly apprehended by two police officers while returning home in Menemen, near Izmir, on 27 February 2002. The police officers allegedly forced him to lie on the ground, handcuffed him and shot him in the foot. He was reportedly taken to Menemen State Hospital. During the transfer, another police officer allegedly punched him in the back. When he attempted to lodge a complaint about this incident, the prosecutor reportedly threatened him with imprisonment. A case was reportedly opened against the police officer who allegedly shot him but a decision not to prosecute the other officer was reportedly issued.

1724. The Government reported that Er. E. had been involved in a stabbing incident at school several months earlier. When he was apprehended by the police he resisted and attempted to grab a police officer's gun. During the struggle the gun accidentally went off and Er. E. was shot in the foot. He was subsequently taken to the hospital. His medical report indicated no sign of torture or ill-treatment. A lawsuit was filed against the police officer involved and the case was still pending.

1725. **Mahir Kankal** was reportedly arrested on 21 March 2002 in Altındağ' Ankara, in relation to an unauthorized Newroz celebration. He was reportedly handcuffed, beaten and brought to Altındağ Central Police Station, where one of his relatives was also detained. Both were allegedly sprayed with cold water, beaten, thrown against a wall, beaten on their backs and feet with a piece of wood, punched, slapped, kicked, insulted and threatened with death. Nine police officers from the Anti-Terror Branch allegedly assaulted and verbally abused them for half an hour. The two detainees were reportedly released the following day without having their statements taken. They were allegedly not given forensic medical examinations, despite their requests. Mahir Kankal reportedly filed a formal complaint on 25 March 2002 and subsequently received a medical report certifying work incapacity for five days.

1726. **K.** and **seven other minors** were allegedly detained in Hacılar village, Urfa, on 25 March 2002, after a statue of Atatürk in the school garden in Hacılar village was broken. Reportedly, only five of the detainees—those aged between 15 and 18—had their detentions registered and their statements taken by a prosecutor. They were reportedly beaten, slapped, insulted, threatened and blindfolded during interrogation at the gendarmerie in Yaylak. A. K. allegedly had a gun pointed at his temple and a knife held at his leg to force him to testify against his elder brother. The group was reportedly made to stand outside in the rain the whole night and were not allowed to communicate with each other. Three of them reportedly filed formal complaints.

1727. The Government reported that an investigation had been initiated regarding allegations of torture and ill-treatment.

1728. **Ahmet Yıldız, İzzet Ensen** and **Zeki Kalavuz** were reportedly arrested by members of the Kapıkaya gendarmerie in the district of Torbalı, Izmir, where they were allegedly held from 18 to 22 April 2002 and accused of involvement with PKK. They were reportedly forced to remain standing, stripped naked, beaten on the soles of their feet (*falaka*), severely beaten elsewhere on their bodies, sprayed with water, sexually abused, threatened, insulted, and given little food and water and limited access to the toilet.

1729. The Government reported that the case regarding allegations of torture and ill-treatment was still pending.

1730. **Mehmet Çetin** was reportedly arrested at his home in Ankara on the morning of 7 May 2002 and held incommunicado at the Anti-Terror Branch of Ankara Police Headquarters. While in detention he was allegedly blindfolded, beaten, thrown against a wall when he refused to strip naked, insulted and threatened with death.

1731. The Government reported that M. Çetin had been charged with inciting the people to hatred and enmity. His medical reports dated 7 and 8 May 2002 indicated no sign of torture or ill-treatment. Upon completion of an investigation, a decision of non-prosecution in connection with allegations of torture was given on 3 December 2002.

1732. **Salih Yılar**, a member of HADEP, was reportedly taken into custody at the Anti-Terror Branch of Diyarbakır Police Headquarters on 14 May 2002. He was reportedly blindfolded, given electric shocks, made to lie on the ground as police officers sat on his shoulders and had cigarettes put out on his cheeks and knees. At the hospital, doctors reportedly treated him for injuries, including deep cuts on his left arm, where it appeared he had been cut with a razor blade, allegedly inflicted to make it look as if he had attempted suicide. A medical examination reportedly corroborated his allegation that he had been subjected to electroshocks. He had reportedly been repeatedly threatened by police officers who warned him not to lodge a complaint about the incident. A disciplinary investigation into these allegations was reportedly opened.

1733. The Government reported that Salih Yılar was invited to the Directorate of Security for his statement to be taken on 15 May 2002. He was not taken into custody. In his statement, he said that he had attempted to commit suicide. However, upon his complaint that he had been subjected to ill-treatment, an investigation was initiated and two police officers were charged. The case was still pending.

1734. **Ibrahim Karabağlı**, aged 23, was reportedly arrested along with 16 others in Ankara on 23 May 2002 in connection with a protest that had been held five days before. He was allegedly held at the Anti-Terror Branch of Ankara Police Headquarters, where he was allegedly beaten, insulted, kicked and punched on the head, and thrown against the wall.

1735. The Government reported that his medical reports dated 23 and 24 May 2002 indicated no signs of torture or ill-treatment. An investigation was initiated regarding his allegations of torture and ill-treatment.

1736. **Ridvan Olcasöz, Fahri Kini, Semsettin Solhan and Ramazan Akman** were reportedly beaten by members of the village guard militia in the neighbourhood of Yüceli in Kiziltepe, Mardin province, during the elections of 3 November 2002. The four men were reportedly acting as election observers on behalf of HADEP. All of them reportedly needed hospital treatment for injuries sustained during the beating. On 4 November 2002 **Salahattin Örnek** and **Savas Yildiz**, both villagers from the same area, were also reportedly beaten by a group of village guard militia. They were reportedly beaten again on 7 November 2002 by the same group of militia and had to be taken to Kiziltepe hospital for treatment.

1737. **Emrullah Karagöz** and **Mustafa Yasar**, whose cases were included in an urgent appeal sent by the Special Rapporteur on 8 November 2001 (E/CN.4/2002/76/Add.1, para. 1671), were reportedly arrested on 27 and 29 October 2001, respectively, and remanded to Diyarbakır prison on 1 November 2001. The Government responded to this urgent appeal by letter dated 11 January 2002 and reassured the Special Rapporteur that an investigation into allegations of torture had been initiated in connection with this case (E/CN.4/2003/68/Add.1, para. 1850). However, according to new information received from non-governmental sources, the two men were reportedly blindfolded, stripped naked, beaten, suffocated and had their testicles squeezed, and were allegedly sprayed with pressurized water and left in the cold. They were also allegedly subjected to sleep deprivation and prevented from lying down. They are also believed to have been made to sign blank sheets of paper and statements whose content they did not know.

1738. The Government reported that following an investigation carried out upon their complaint, a decision not to prosecute was issued on 7 February 2003

1739. By letter dated 7 August 2003, the Special Rapporteur advised the Government that he had received information on the following individual cases. By letters dated 27 October 2003 and 18 November 2003, the Government provided the Special Rapporteur with information on some of these cases.

1740. **Azime Arzu Torun** (f) was reportedly rolled down the stairs, threatened with rape and beaten with a truncheon on her genitals while being lifted by her arms and legs by prison guards and other law enforcement forces during a prison operation in Burdur on 5 July 2000. A chief guard allegedly tried to insert a neon tube into her vagina. Gendarmes and prison guards allegedly raped her with a triangulate truncheon. Two days later she was reportedly brought to Burdur State Hospital where she allegedly reported the rape but refused to undergo a virginity test. A female inspector assigned by the Ministry of Justice heard her testimony, but allegedly asked insensitive and abusive questions. Azime Arzu Torun reportedly filed a complaint.

1741. The Government responded that upon completion of an investigation initiated by the Public Prosecutor's Office in Burdur against 117 prison officers and 415 gendarmerie personnel, a decision not to prosecute in respect of the 117 prison officers was issued on 11 November 2002. This decision was appealed before the Isparta Heavy Penal Court and the appeal was turned down on 7 January 2003. As for the investigation of 415 gendarmerie personnel, the Government reported that the Governor declined to issue the necessary permission for an investigation. A complaint against this decision was filed before the Regional Administrative Court, which

overruled the decision of the Governor's Office. The investigation initiated by the Public Prosecutor, was under way. Azime Arzu Torun was transferred to Niğde Prison on 8 July 2000. She received medical examinations on 10 and 18 July 2000 at her request. According to the medical reports, she had not been sexually assaulted. The Government further reported that there was no officer assigned by the Ministry of Justice to hear her testimony and that no insensitive and abusive questioning occurred during questioning.

1742. **Five female members of the Peace Mothers Initiative** were reportedly arrested upon their return from Iraq, where they had allegedly travelled in order to mediate between the two sides to a conflict in the Kurdish region of northern Iraq. The five women and their male interpreter were reportedly arrested by gendarmes at the border on 4 October 2000, taken to two different places where they were allegedly interrogated and eventually transferred to the Gendarmerie Headquarters in Silopi. They were reportedly insulted, blindfolded, stripped naked and sexually abused. It was also alleged that the gendarmes squeezed their throats so they could not breathe, slapped them, strangled them with their headscarves and smacked them on the back of their heads and on their necks. Some of them warned the gendarmes that they had high blood pressure and had recently undergone surgery. On 7 October 2000, they were reportedly remanded to Mardin prison until their release in early November 2000. They were subsequently reportedly to have been prosecuted for supporting the PKK. They reportedly filed a formal complaint and their statements were allegedly taken by a prosecutor.

1743. **L.N.** (f), aged 17, was reportedly arrested on 23 January 2002 along with other students in Diyarbakır on suspicion of having distributed leaflets calling for Kurdish education at their school. She was allegedly interrogated at Diyarbakır Police Headquarters, where she was allegedly strip-searched by a female police officer, blindfolded and brought to a room where loud music was playing. Police officers allegedly threatened to rape her. During a third interrogation session, she was allegedly stripped to her underwear, hosed with pressurized water and given electric shocks to her toes, knees and stomach for some 15 minutes. She was allegedly not given food for two days and rarely allowed to use the toilet. Police allegedly forced her to sign many documents, the contents of which she did not know. After three days, she was reportedly medically examined in the presence of police and subsequently released by a prosecutor. After she filed a formal complaint about her treatment, police officers reportedly came to her home and detained her again.

1744. **Yener Aslan** and **İpek Avcı** (f) were reportedly arrested at the business run by İpek Avcı in Ankara on 25 February 2002 by police officers from the Seğmenler Police Station under the Altındağ District Police Headquarters. İpek Avcı was reportedly questioned about the whereabouts of her former husband and beaten. Yener Aslan, a client of the business who tried to interfere, was also reportedly beaten in front of seven or eight other clients. While in custody, Yener Aslan was reportedly beaten for an hour. A medical report reportedly certified injuries allegedly sustained upon arrest and in detention. Officers reportedly pulled İpek Avcı's hair, verbally abused her and threatened to rape her with a truncheon.

1745.

1746. **Hamdiye Aslan**, a woman of Kurdish origin whose husband was allegedly imprisoned on political grounds, was reportedly detained in Kızıltepe on 5 March

2002 and held at the Anti-Terror Branch of Mardin Police Headquarters until 7 March 2002. During her detention, she was reportedly blindfolded and threatened. Police officers reportedly poured cold water over her while an air conditioner was blowing on her. She was allegedly stripped naked and sodomized with a truncheon by a female police officer. She was reportedly remanded to Mardin Closed Prison until she was released by a court on 23 May 2002. The local Medical Chamber reportedly opened a case against two doctors who wrote reports stating that she had not been subjected to torture. Another doctor who stated that she had injuries consistent with ill-treatment was subsequently transferred to Diyarbakır. Following her formal complaint about the treatment she was allegedly subjected to, she obtained further medical certificates which reportedly recorded injuries consistent with her allegations of torture. The Mardin prosecutor reportedly opened an investigation against five police officers.

1747. **Jale Kirman** (f) was reportedly detained on 3 April 2002 and taken to the Anti-Terror Branch of Ankara Police Headquarters, where she was allegedly insulted, beaten, sexually harassed and threatened with rape, and that the photographs of the rape would be displayed in a public place.

1748. **Ethem Akdoğan** and **Hatice Allahverdi** (f) were reportedly arrested on 8 April 2002 in Kızılay in the centre of Ankara and held for two days at the Anti-Terror Branch of Ankara Police Headquarters. Ethem Akdoğan was reportedly insulted, beaten, slapped, thrown against a wall and had his testicles squeezed. Hatice Allahverdi was allegedly threatened with rape and death. She was reportedly beaten, including on the breast, thrown against a wall, slapped, spat at in the face and insulted.

1749. **Yüksel Bulut** (f), a journalist, **Eylem Çolak** (f) and **Hatice Aydemir** (f) were reportedly detained in Gaziantep in April 2002. Yüksel Bulut was reportedly arrested on 7 April 2002, blindfolded at the police station and beaten when she complained about the treatment she was being subjected to. Her detention was apparently not registered. During her interrogation, she was reportedly stripped naked, insulted, threatened with death, beaten, sprayed with cold pressurized water, sexually assaulted and filmed while naked. Eylem Çolak, a member of *Eğitim-Sen*, the trade union for education workers was reportedly subjected to "Palestinian hanging" i.e. stripped naked and hang up by the arms, and forced to admit that she knew Yüksel Bulut. The doctor who examined Yüksel Bulut allegedly refused to write a report after she allegedly told him what had happened. According to the information received, on 8 April 2002, Yüksel Bulut, Eylem Çolak and Hatice Aydemir were brought to court. Hatice Aydemir reportedly could not move her arms and her hands were purple as a result of "Palestinian hanging". All three women reportedly filed formal complaints, which were allegedly rejected by the prosecutor.

1750. The Government responded that an investigation had been initiated into the allegations concerning Yüksel Bulut. A decision not to prosecute was issued. The Government also reported that the public prosecutor had initiated an investigation into the cases of Eylem Çolak and Hatice Aydemir but that a decision not to prosecute was issued.

1751. **Tekin Demir** was reportedly detained, together with his son. They were taken from their home on 3 April 2002 on suspicion of aiding and abetting an illegal organization. Both were reportedly held at the Anti-Terror Branch of Police

Headquarters in Ankara for two days. Tekin Demir was reportedly blindfolded, stripped naked, beaten, insulted, threatened, had his hair and moustache torn out and his fingers burned with hot water, and was given electric shocks and hosed with cold water. Police officers also reportedly stamped on his hands while he was lying on the floor. The doctor did reportedly not record any of his injuries when he was medically examined at the end of his custody. However, a forensic examination carried out on 13 May 2002, after Tekin Demir had filed a formal complaint from the prison to which he had been remanded, reportedly recorded numerous lesions on his body and other medical complaints consistent with his allegations of torture.

1752. By letter dated 26 September 2003, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he had received information according to which **Nese Bilgin** (f) was apprehended, blindfolded, pushed around and threatened with death by alleged members of the Anti-Terror Branch of the local police force on 5 November 2002 in the Alsancak area of Izmir. An investigation was reportedly launched after she lodged a complaint with the Izmir State prosecutor on 22 November 2002. On the same day, she was allegedly threatened by an individual in civilian clothes in the Yamanlar area of Izmir. On 17 December 2002, she was reportedly grabbed by two men, shoved in a car, blindfolded, asked about the whereabouts of an acquaintance, thrown on the ground, stripped naked, sexually assaulted and threatened with death. On the basis of a complaint lodged about that incident, a case was reportedly opened by the Izmir State prosecutor against two police officers from the Anti-Terror Branch of the Izmir police force, who were charged with torture. The hearing of their trial was due to take place on 16 October 2003. Nese Bilgin was reportedly discharged from hospital on 25 April 2003. On the same day, she was reportedly followed by individuals in civilian clothes and received a death threat by telephone.

1753. By letter dated 31 October 2003, the Government reported that since the perpetrators of the threats could not be established, the investigation was still under way. The Government said it would provide information at the first hearing, due to be held on 16 October 2003.

1754. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002 and 2001 for which no response had been received.

Urgent appeals

1755. On 9 May 2003, the Special Rapporteur sent an urgent appeal concerning an alleged police raid at the national headquarters and the local branch of the Human Rights Association (IHD) in Ankara on 6 May 2003. A number of files and computers containing information on human rights violations perpetrated by the security forces were reportedly confiscated. Fears were expressed that staff of the organization and victims of human rights violations being investigated by the IHD would then be at risk of harassment, arrest and ill-treatment. A warrant for the search of both offices had reportedly been issued on 29 April 2003 and a prosecutor from the Ankara State Security Court was reportedly present during the raids. These raids reportedly occurred immediately following the attendance by members of IHD at the session of the United Nations Committee against Torture which took place from 2 to 5 May

2003, during which a member of the Turkish delegation allegedly questioned the appropriateness of the queries regarding the situation of harassment of human rights defenders in Turkey.

1756. On 22 May 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning **K.Ö.**, a woman of Kurdish origin, who was reportedly raped and tortured by police at her home in 1999 and had frequently been threatened and intimidated since then, apparently in an attempt to prevent her from pursuing her case with the European Court of Human Rights (ECHR). On 23 April 2003, her home was reportedly raided by police, who allegedly threatened her with death. On 28 April 2003, she visited the Adana branch of IHD to make a complaint about the raid. On her return home the same police officers reportedly forced her into a car at gunpoint, blindfolded her and threatened her with death. The Turkish courts had reportedly rejected all of K.Ö.'s attempts to press charges against the police officers and refused to consider a psychiatric report submitted in relation to her original complaint. The report, prepared by the Psychosocial Trauma Centre at Istanbul University's Çapa Medical Faculty, stated that K.Ö. was suffering from chronic post-traumatic stress disorder.

1757. By letter dated 8 July 2003, the Government responded that K.Ö. had applied to the Provincial Security Directorate in Adana on 27 December 1999 alleging that two unidentified persons claiming to be police officers came to her house that day, asking questions about her daughter, who was reportedly involved in armed activities of the PKK terrorist organization in rural areas, and ill-treated and raped her. It was alleged that, upon her application, she was invited to the Anti-Terror Branch of the Provincial Security Directorate on 31 March 2000 to identify the alleged assailants, accompanied by her son and her legal counsel. They scrutinized a total of 108 officers who were present that day and that also perused the photographs of those who were on duty and therefore absent during their visit. During that visit, her son, addressing her in Kurdish, told her to point to one of the officers whose photograph was displayed on the wall. It was reportedly on her son's direction that she identified the officer in question, claiming that he was among those who came to her house but adding that he was not among those who ill-treated her. Upon investigation, it was established that the policeman in question was in fact the officer who had accompanied her son to the local recruiting office in charge of military services. The request to initiate an official inquiry was rejected due to the lack of conclusive evidence supporting her statements as well as the alleged inconsistencies in her statements taken on different dates and the manner in which she identified the officer. Finally, with respect to her allegation of ill-treatment and rape on 27 December 1999, the Government stated that the medical report of Adana State Hospital dated 28 December 1999 did not indicate any sign of ill-treatment. The Government informed that the report issued by the relevant department of Balçali State Hospital (Faculty of Medicine, Çukurova University) where she was sent for further examination also concluded that no signs confirming the alleged rape were found.

1758. On 26 September 2003, the Special Rapporteur sent an urgent appeal concerning **Farideh Sohrabi Cheghakaboudi**, a Kurdish Iranian woman reportedly recognized as a refugee by UNHCR. The Turkish authorities had reportedly initiated procedures in view of her deportation to Iran. She was reportedly arrested on

12 August 2003 in Ankara and was allegedly held at the Foreign Nationals' Department of Ankara Police Headquarters.

1759. By letter dated 12 November 2003, the Government of Turkey responded that in her application for asylum she stated that she did not face any politically motivated problem in her country of origin. Taking into consideration that she did not seek asylum during her stay in Cyprus. The Syrian Arab Republic or Azerbaijan during a previous stay in Turkey, the competent Turkish authorities concluded that her application was not sincere and justifiable. However, after the refusal of her application, UNHCR in Turkey informed the Foreign Ministry that she could be resettled in Sweden, where she eventually went on 15 October 2003. The Government also reported that allegations of ill-treatment were false.

1760. On 7 November 2003, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention concerning **Hojjat Zamani** and **Massoud Moqtadari**, both Iranian nationals, who were reportedly arrested by plain-clothes police officers near Taksim square in Beyoglu, Istanbul, on 3 August 2003, and taken away in two separate unmarked cars. The cars reportedly arrived at an unknown building where Massoud Moqtadari allegedly saw Hojjat Zamani for the last time. It is reported that Massoud Moqtadari was questioned by police officers, including about his relationship with Hojjat Zamani, before being released on 5 August 2003. He reportedly provided an account of their arrest to an Istanbul lawyer and to representatives of the Istanbul branch of the IHD on 17 October 2003. It was believed that he could be at risk of reprisals for having reported his case to a lawyer and a human rights organization. Concerning Hojjat Zamani, his whereabouts had reportedly not been disclosed. The authorities had reportedly denied that he was registered as being in police custody and stated that they had no information on his whereabouts. It is thought that he could be facing forcible return to the Islamic Republic of Iran. In view of his alleged affiliation with the People's Mujahedin of Iran (PMOI), an Iranian armed opposition group, fears had been expressed that he could be at risk of torture or other forms of ill-treatment upon return to the Islamic Republic of Iran.

Follow-up to previously transmitted communications

1761. By letter dated 16 December 2002, the Government of Turkey responded to an urgent appeal sent by the Special Rapporteur on 14 June 2002 concerning a family (whose members' names were given to the Government) and to which it had already responded by letter dated 27 August 2002 (E/CN.4/2003/68/Add.1, paras. 1814 and 1815). The Government reported that upon completion of the investigation initiated by the Public Prosecutor's Office, a public lawsuit was filed against the three police officers who allegedly ill-treated the persons in question. The case was still pending.

1762. By letter dated 17 December 2002, the Government responded to a communication sent by the Special Rapporteur on 2 September 2002 (E/CN.4/2003/68/Add.1, paras. 1776 et seq.) and provided information on the following cases.

1763. Concerning **Mehmet Teomete** (ibid., para. 1781), the Government reported that he fell while chasing the police car in which his brother was being taken away

and thus sustained some bruises on his body. He was taken to hospital by the police and received medical care. After an investigation, a lawsuit was filed against the police officers concerned. The case is still pending.

1764. Concerning **Mehmet Emin Toraman** (ibid., para. 1781), the Government reported that he fell from a building as he was trying to escape from the police during an investigation regarding a burglary. He was taken into custody on 19 March 2001. The Government further reported that upon his allegation of ill-treatment, an investigation was initiated by the Chief Public Prosecutor. However, a decision of non-prosecution was adopted for lack of evidence against the police officers in question. No appeal was filed by the complainant. The Government finally stated that this case had no link with the above-mentioned case concerning Mehmet Teomete.

1765. Regarding **Selim Acan** (ibid., para. 1782), the Government informed the Special Rapporteur that a lawsuit was filed against the gendarmerie officers by the Chief Public Prosecutor but that a non-prosecution decision was eventually adopted. The appeal filed against this verdict was refused by the relevant court.

1766. Concerning **Mehmet Ali Çelik** (ibid., para. 1784), the Government reported that a medical report did not indicate any signs of ill-treatment. A witness also confirmed that the police did not use force during the search. After an inquiry was initiated by the Public Prosecutor, a non-prosecution decision was adopted.

1767. Concerning **Engin Duruk** (ibid., para. 1785), the Government reported that a lawsuit was filed against the assistant director of the school and that the case was still pending. A lawsuit was also filed by the Chief Prosecutor against the police officers allegedly involved and a decision of non-prosecution was adopted on 12 November 2001. No appeal was filed.

1768. Concerning **Özgür Barış Kılıç** (ibid., para. 1786), the Government reported that according to a medical examination carried out when he was taken into custody, he showed no signs of ill-treatment. His statement was taken by the Chief Public Prosecutor on 8 January 2001 in the presence of his lawyer and he did not report any kind of ill-treatment. A lawsuit was filed against him and he appeared in court the same day. Neither he nor his lawyer stated any allegation of this kind. He was released on the same day. However, two days later he went to the Izmir Chamber of Physicians and alleged that he had been tortured while in custody. The Chamber found signs of ill-treatment on his body and transmitted a report to the Public Prosecutor. He was brought to the Directorate of Forensic Medicine in Izmir, the Chief Directorate of Forensic Medicine in Istanbul and the Faculty of Medicine at Ege University for further examination. The Government reported that a lawsuit had been filed against police officers and the case was still pending.

1769. Concerning **Mehmet Sait Dönmüş** and **Mehmet Ali Kaplan** (ibid., para. 1787), the Government informed the Special Rapporteur that medical reports dated 30 June 2000 and 1, 2 and 5 July 2000 did not indicate any sign of ill-treatment. Their detention was duly extended by the court. They did not report any kind of ill-treatment during their detention or to the court but disclosed these allegations after their acquittal on 7 November 2001. Two gendarmerie officers were allegedly accused of ill-treatment but eventually acquitted. The Government reported that the

case of the doctor accused of not indicating bruises on their bodies was still pending. The Director of Health was found guilty under article 240 of the Penal Code. He filed an appeal.

1770. By letter dated 17 December 2002, the Government responded to an urgent appeal sent by the Special Rapporteur on 30 September 2002 concerning **Yavuz Bingöl, Serdar Nalbant, Metin Atilla, Fuat Keskin, Hayrettin Gülen, Çetin Harmancı, Erdoğan Fandemir and Habip Uzum** (E/CN.4/2003/68/Add.1, para. 1823). The Government reported that the Public Prosecutor initiated an inquiry on allegations of torture. Medical reports of the above-mentioned persons dated 23 and 27 September 2003 did not indicate any trace of torture or ill-treatment. However, as the medical report of Yavuz Bingöl contained a diagnosis of acute appendicitis, he underwent appropriate treatment at the hospital. A medical consultation concluded that he did not need a surgical operation. He was visited by his father on 26 September 2002. The Government further reported that no application was received by the above-named persons to see a lawyer or by any lawyer to see the detainees. No application by the Human Rights Association was lodged to the Bingöl Directorate of Security to see the detainees.

1771. By letter dated 26 December 2002, the Government responded to an urgent appeal sent by the Special Rapporteur on 27 September 2002 concerning **Abdullah Kaya** (E/CN.4/2003/68/Add.1, para. 1821). The Government informed the Special Rapporteur that in order to benefit from the Repentance Law, Abdullah Kaya made a plea bargain with the police on 22 September 2002 and said that he would voluntarily provide additional information regarding the activities of the Hizbullah. Under this law, the court ruled for his transfer to Diyarbakır prison for a period up to 10 days to make his confessions. He was transferred from prison following a medical report by a doctor and returned to prison on 4 October 2002. Medical reports dated 19, 21, 22 and 24 September 2002 prepared in Diyarbakır State Hospital and the Department of Forensic Medicine in Ankara did not indicate any signs of ill-treatment. The Government further stated that during his detention, he did not launch any complaint of ill-treatment to the Public Prosecutor. However, he, along with 50 other people, had lodged a separate complaint with the Public Prosecutor in Diyarbakır, alleging that damage was done by the gendarmerie officials to their houses during an operation. This application was being investigated by the Public Prosecutor.

1772. By letter dated 26 December 2002, the Government responded to an urgent appeal sent by the Special Rapporteur on 30 September 2002 (E/CN.4/2003/68/Add.1, para. 1822) concerning **Ahmet Ece**. The Government confirmed that he was apprehended on 23 September 2002 by gendarmerie units while he was en route to Batman. His mother was duly informed that he was taken into custody. On 25 September 2002 he was transferred to the Public Prosecutor's Office in Bismil. He was reportedly arrested on the same day, after his statement was taken by the Public Prosecutor and he was transferred to prison in Bismil. A lawsuit was filed against him for aiding and abetting the PKK/KADEK terrorist organization. The case was still pending. On 14 October 2002 he was transferred to Diyarbakır prison where he was still detained. The Government further reported that he did not lodge any complaint of ill-treatment while in custody.

1773. By letter dated 26 December 2003, the Government provided information concerning three cases included in a communication sent jointly with the Special Rapporteur on violence against women (E/CN.4/2003/68/Add.1, paras. 1792 et seq.).

1774. Concerning **Naif Demirci** and **Mekiye Demirci** (ibid., para. 1793), the Government affirmed that medical reports of Naif Demirci dated 21 and 25 December 2001, 3 and 22 January 2003, 6 February 2002 and 15 March 2002 did not show evidence of ill-treatment. The inquiry of the Public Prosecutor regarding this complaint was under process. The Government further affirmed that there was no application made to the Public Prosecutor regarding alleged ill-treatment against Mekiye Demirci. Her medical reports dated 22 and 26 December 2001 did not show signs of ill-treatment either. They were no longer under arrest and their trial was pending.

1775. Concerning **Gülistan Durç** (ibid., para. 1798), the Government reported that upon receiving her complaint alleging that she had been ill-treated while in custody, she was invited to the Public Prosecutor's Office to elaborate on her allegations and produce evidence. It was then established that she was not residing at the domicile indicated in her petition. The search for her new address was under way. The investigation regarding her allegations was still ongoing.

1776. Concerning **Seher Durgaç** (ibid., para. 1799), the Government apprised the Special Rapporteur that a medical report dated 16 June 2001 did not indicate any signs of ill-treatment. Another medical report dated 22 June 2001 indicated that there were some bruises on her right shoulder. The Government further stated that she did not make any application to the Public Prosecutor on these allegations. She was no longer under arrest and her case was still pending.

1777. By letter dated 17 January 2003, the Government responded to an urgent appeal sent by the Special Rapporteur on 31 October 2002 concerning the case of **Ertekin Kaplan, Şeyhmus Akat, Mahmut Hocaoğlu, Nurettin Gülcü** and **Bayram Kılıç** (E/CN.4/2003/68/Add.1, para. 1827). The Government affirmed that necessary permissions for their custody were obtained from the Public Prosecutor's Office at the State Security Court in Diyarbakır on 27 and 29 October 2002. The detainees were transferred to the Public Prosecutor's Office on 1 November 2002. After giving their statements, Nurettin Gülcü and Bayram Kılıç were released. The three other individuals were arrested on suspicion of being members of the Kurdistan Islamic Revolutionary Action terrorist organization. Medical reports dated 25, 26 and 29 October 2002 and 1 November 2002 did not indicate any trace of ill-treatment. The required medications were provided to Nurettin Gülcü on 30 October 2002 upon his request. The Government reported that Ertekin Kaplan did not request any medicine. Nurettin Gülcü and Bayram Kılıç were visited by their relatives and lawyers 48 hours after their arrest. The Government further reported that no application was made to the Public Prosecutor's Office on the grounds that they had been tortured. However, the latter initiated an inquiry after receipt of the official correspondence of the Ministry of Justice, upon the allegations raised by the Special Rapporteur.

1778. By letter dated 27 January 2003, the Government responded to an urgent appeal sent by the Special Rapporteur on 15 January 2002 concerning the case of **Orhan Armutçu, Erkan Yıldırım, Sıraç Budancı, Yüksel Azak** and **Ahmet**

Akbay (E/CN.4/2003/68/Add.1, para. 1801). The Government reported that Erkan Yıldırım and Sıraç Budancı had been acquitted on 13 December 2002 and that the other detainees had been sentenced on 13 December 2002 to three years and nine months each for aiding and abetting the PKK terrorist organization.

1779. By letter dated 27 October 2003, the Government responded to an urgent appeal sent by the Special Rapporteur on 28 August 2002 concerning **Abdülkadir Yakut**, in relation to which the Government had already provided information by letter dated 21 October 2002 (E/CN.4/2003/68/Add.1, paras. 1819 and 1820). The Government reported that after a complaint was filed by his lawyer, the Public Prosecutor's Office initiated an investigation. However, the Office of the Governor declined to issue the necessary permission for an investigation of the relevant police officers who allegedly ill-treated him on the basis of the available information on his behaviour during his apprehension and transportation from the Public Prosecutor's Office to the hospital. The Government further reported that an application was filed this decision to the Regional Administrative Court to receive such permission. This application was refused. Since the decision of the Court was endorsed, it was decided on 11 July 2003 that there was no need for an investigation.

1780. By letter dated 4 December 2003, the Government responded to cases transmitted by the Special Rapporteur in the past and recalled in his above-mentioned communication dated 8 October 2003.

1781. Concerning **Hatip Alay** (E/CN.4/2003/68/Add.1, para. 1778), the Government reported that he was sentenced to three years and nine months imprisonment and to three years of prevention from public service. An appeal was filed at the Court of Cassation on 25 July 2003 and the case was ongoing. The Government also reported that the Governor's Office at Diyarbakır started an investigation based on his complaint of torture while in detention. It adopted a decision of non-prosecution on 19 June 2002. The application filed against this decision to the Regional Administrative Court was turned down on 31 March 2003 by the Court.

1782. Concerning **Fehmi Ak** (E/CN.4/2003/68/Add.1, para. 1779), the Government informed the Special Rapporteur that he was sentenced to three years and nine months imprisonment and to three years of exclusion from public service. The Government also reported that the Governor's Office at Diyarbakır started an investigation based on his complaint that he had been subjected to torture while in detention. It adopted a decision of non-prosecution on 19 June 2002. The application filed against this decision to the Regional Administrative Court was eventually turned down by the Court.

1783. Concerning **H. Selim Açıan** (E/CN.4/2003/68/Add.1, para. 1782), the Government reported that he was transferred from Efirne Prison to Tekirgağ Prison on 3 March 2001 and released on 4 April 2001. The City Administrative Board of the Governor's Office at Edirne started an investigation based on his complaint that he had been subjected to torture during his detention. The Board adopted a decision of non-prosecution on 16 December 2001. The Government had already provided information on this case by letter dated 17 December 2002.

1784. Concerning **Fesih Güler** (E/CN.4/2002/76/Add.1, para. 1616), the Government reported that the Public Prosecutor's Office in Diyarbakır initiated an investigation upon an application filed by Fesih Güler's father on grounds that he had been tortured while in custody. The Government further reported that in a testimony given on 14 November 2000, Fesih Güler stated that he had not been forced to make a confession and that he was unaware of the motives behind his father's application. A decision of non-prosecution was adopted. Meanwhile Fesih Güler filed a petition alleging that he had been subjected to torture during his interrogation at the Anti-Terror Branch of Diyarbakır. The case was referred to the Governor's Office in Diyarbakır, which decided not to issue the necessary administrative permission for investigation on 22 March 2002. An application against this decision to the Regional Administrative Court was rejected and a decision of non-prosecution was adopted by the Public Prosecutor.

1785. Concerning **Baki Yaş** (E/CN.4/2002/76/Add.1, para. 1601), the Government reported that there was no complaint filed to the Tekirdağ Prosecutor's Office on the grounds of alleged ill-treatment during his transfer. The Government further reported that he was released on 22 April 2003 for health reasons.

1786. Concerning the "**Manisa case**" (E/CN.4/2002/76/Add.1, para. 1630), the Government reported that in its final verdict of 16 October 2002, the First Instance Penal Court in Manisa sentenced the litigants to imprisonment ranging from 30 to 130 months. This verdict was endorsed by the eighth Chamber of the Court of Cassation. Accordingly, the convicted individuals would remain in prison from two years to four years and four months. The Government stated that 10 convicted police officers were already in prison.

1787. Concerning the **Fahriye Bikin, Mÿesser Günes, Şekernaz Çakal, Rahime İnci and Murat Batgi** (E/CN.4/2002/76/Add.1, para. 1634), the Government reported that the Public Prosecutor's Office in Silopi started an investigation based on their complaint on grounds that they had been subjected to ill-treatment at the gendarmerie headquarters in Silopi. This investigation concluded with a decision of non-prosecution on 10 December 2001 since no evidence was found relating to the allegations. The Government provided the Special Rapporteur with information on the reasons behind the decision of non-prosecution.

Observations

1788. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee against Torture (CAT/C/CR/30/5, paras. 5 and 6) about numerous and consistent allegations that torture and other cruel, inhuman or degrading treatment of detainees in police custody are apparently still widespread in Turkey; allegations that persons held in police custody have been denied prompt and adequate access to legal and medical assistance and that family members have not been promptly notified of their detention; allegations that despite the number of complaints, the prosecution and punishment of members of security forces for torture and ill-treatment are rare, proceedings are exceedingly long, sentences are not commensurate with the gravity of the crime, and officers accused of torture are rarely suspended from duty during the investigation; the importance given to confessions in criminal proceedings and the reliance of the police and the judiciary on confessions to

secure convictions; the alarming problems in prisons as a result of the introduction of the so-called "F-type prisons" which have led to hunger strikes causing the deaths of more than 60 inmates; the lack of training of medical personnel dealing with detainees in matters relating to the prohibition of torture; allegations according to which the expulsion of illegal aliens to their country of origin or to neighbouring countries is often accompanied by ill-treatment, in violation of the safeguards contained in article 3 of the Convention; and the continuing reports of harassment and persecution of human rights defenders and non-governmental organizations.

Turkmenistan

1789. By letter dated 21 July 2003, the Special Rapporteur advised the Government of Turkmenistan that he had received further information on individuals who were allegedly arrested after the attack on the Presidential motorcade on 25 November 2002. The Special Rapporteur sent an urgent appeal in that connection on 10 December 2002 (E/CN.4/2003/68/Add.1, para. 1858). According to the new information received, **Amanmukhammet Yklymov** was held in the Ashgabat city police building following his arrest on 25 November 2002. A plastic bag was allegedly placed over his head, and he was reportedly suspended by his arms, and forced to wear a gas mask, to which the air supply was cut off. As a result of the treatment he had allegedly been subjected to, he lost sight on his left eye and the hearing in his left ear and his left arm was reportedly broken. He was allegedly sentenced to 20 years' imprisonment on 19 January 2003. The court reportedly ignored Amanmukhammet Yklymov's allegations regarding his treatment while in custody. His brother **Orazmamed Yklymov** reportedly confessed that he had been involved in the attack on the President following threats by law enforcement officers that his son would be tortured if he did not confess. Orazmamed Yklymov reportedly appeared in court with a dislocated arm and a swollen eye, and was unable to hear in one ear. He was reportedly sentenced to 20 years' imprisonment on 19 January 2003. **Esenaman Yklymov** was allegedly forced to denounce his parents on television and was reportedly sentenced to five years' imprisonment. He reportedly did not receive any treatment for alleged injuries sustained while in custody. **Yklym Yklymov**, another brother, reportedly went into hiding following the 25 November attack. His girlfriend, **Olga Prokofva**, and her mother and sister were reportedly subjected to electric shocks and beaten with rubber truncheons and plastic bottles filled with water in order to force them to disclose Yklym Yklymov's whereabouts. **Batyr Berdyev**, a former Foreign Minister and ambassador to the Organization for Security and Cooperation in Europe (OSCE), was allegedly arrested on 8 December 2002 and beaten by officers of the Ministry of National Security. He was reportedly sentenced to 25 years' imprisonment on 21 January 2003. **Guncha** and **Lachin Babaeva**, two sisters, were reportedly forced to disclose the whereabouts of one of the Yklymov brothers by police officers from the Sixth Department of the Ministry of the Interior (MVD) in Ashgabat on 20 and 21 December 2002. Guncha Babaeva was reportedly beaten to such an extent that she could hardly move her arms and legs for one week. She was allegedly also kicked by a police officer who is said to have pulled her beret from her head in such a way that he also tore out some of her hair. Lachin Babaeva was reportedly beaten on her head by an officer from the MVD. While in custody she reportedly had to express her own milk because she was still breastfeeding her son. **Davlatgeldi Annannyazov** was reportedly arrested on 30 November 2002 in

Ashgabat. He was reportedly beaten and humiliated in front of his wife and daughter and taken to MVD, where he was allegedly beaten again.

1790. By the same letter the Special Rapporteur also informed the Government that he had received further information on **Farid Tukhbatullin**, whose case was included in an urgent appeal sent on 27 December 2002 by the Special Rapporteur on torture and the Special Representative of the Secretary-General on human rights defenders. According to the new information received, on 4 March 2003, Azadlyk district court in Ashgabat sentenced him to three years' imprisonment. His relatives, as well as international and local monitors, were reportedly denied access to the trial. Before the trial, his lawyer was reportedly denied access to him and was unable to see him for more than one month.

1791. By letter dated 31 October 2003, sent jointly with the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur advised the Government that he had received information according to which **Sazak Begmedov**, father of Tajigul Begmedova (f), chair and founder of the Turkmenistan Helsinki Foundation, a non-governmental human rights organization, who reportedly lives in exile in Bulgaria, was allegedly abducted by four officers of the Ministry of Internal Affairs in Ashgabat on 31 August 2003. He was reportedly beaten and forcefully escorted to an aeroplane and flown to Dashagous, near the border with Uzbekistan. Upon requesting the reason for this forced internal displacement, he was allegedly told by one officer that it was related to the "Turkmen Helsinki Committee". The local police in Dashagous reportedly refused to take his complaints about being beaten into account and told him that he needed to keep them informed of his whereabouts. On 3 September 2003 Sazak Begmedov was reportedly hospitalized in Dashagous with a heart attack, allegedly due to ill-treatment by the officers.

Urgent appeals

1792. On 27 December 2002, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders concerning **Fahrid Tukhbatullin**, an activist associated with the Dashoguz Ecological Club in Turkmenistan, who was reportedly arrested by security agents on 23 December 2002 in Dashoguz. He was allegedly accused of having participated in a meeting organized by the International Helsinki Federation for Human Rights and Memorial in Moscow in November 2002 where human rights activists discussed the current human rights situation in Turkmenistan. It was not known whether he had access to a lawyer or to family members. Fears were expressed that he could be at risk of torture and other forms of ill-treatment.

1793. On 28 May 2003, the Special Rapporteur sent an urgent appeal concerning **Serdar Chariyarov**, the former Turkmen First Deputy Minister of Defence, Chief of General Staff and Head of the Air Force, who was allegedly accused of involvement in the 25 November 2002 attack on the President and of "having looted property of the armed forces". These accusations were reportedly based on the confessions of two men who were allegedly sentenced to long prison terms after having been subjected to torture during interrogation and to unfair trials in December 2002 and January 2003. Serdar Chariyarov was allegedly under investigation at an undisclosed location in connection with these accusations. His whereabouts had reportedly not been disclosed.

1794. On 5 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning **Boris Shikmuradov**, the former Minister for Foreign Affairs of Turkmenistan, who was reportedly arrested on 25 December 2002 in relation with the attempted assassination of President Saparmurad Niazov on 25 November 2002. He was reportedly held in incommunicado detention. Representatives of human rights organizations and the OSCE were also allegedly prevented from visiting him. Since his arrest, he had been administered injections of psychoactive and paralytic drugs, as a result of which his health was believed to have seriously deteriorated. He was reportedly losing both his physical and mental capabilities and it was feared that the treatment allegedly received could lead to his death.

1795. On 29 October 2003, the Special Rapporteur sent an urgent appeal concerning **Akmuhammeda Baihanov**, a resident of Ashgabat city, who was reportedly arrested on 18 June 2003 by members of the Ministry of National Defence and taken into detention. His brother was allegedly dismissed from his job at the Ashgabat airport and prohibited from leaving Ashgabat. Other members of his family were allegedly subjected to threats and other forms of harassment. It was thought that Akmuhammeda Baihanov was in detention and his family harassed because he was suspected of carrying out substantive activities against President Saparmurad Niyazov. Akmuhammeda Baihanov was reportedly not involved in any political activities. He had been watched by members of the Turkmenistan national security forces since March 2003 but no evidence had reportedly been found with which to press charges against him. He was reportedly sentenced in early September 2003 to five years in prison. He allegedly did not have a lawyer. He was detained in Tedjen prison, Ahal region, where he was allegedly kept in overcrowded and unsanitary conditions. His relatives were reportedly permitted to visit him only once while he was in prison. They allegedly found him in very poor health, which made them think that he had been subjected to torture while in detention.

1796. On 28 November 2003, 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, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative of the Secretary-General on human rights defenders, concerning **Saparmurat Ovezberdiev**, a journalist who was reportedly severely beaten, threatened and dumped on the side of a road in Ashgabat on 14 November 2003 by two men believed to be secret service agents. On 11 September 2003, Saparmurat Ovezberdiev was reportedly arrested by National Security Ministry officers and detained for three days. He was allegedly drugged, manhandled and threatened with a 20-year prison sentence for being a “traitor to the homeland”. These actions might be related to one of his radio programmes, in which listeners are given an opportunity to talk about violations of their human rights and to get in touch with legal experts and human rights organizations abroad.

Observations

1797. By letters dated 6 June and 16 October 2003, the Special Rapporteur requested from the Government an invitation to visit the country in order to gather first-hand information and to be in a better position to evaluate the situation regarding the alleged practices of torture and other forms of ill-treatment with a view to making

specific recommendations to the concerned authorities of the country. The Special Rapporteur regrets that no response to his request has been received to date.

Uganda

1798. By letter dated 17 September 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government of Uganda that he had received information according to which **Nsangi Murisdi**, a small businessman, was reportedly killed while in custody at Uganda's Violent Crime Crack Unit (VCCU) on 14 June 2003. His relatives were allegedly denied access to him and reportedly received news of his death on 18 June 2003. The report of the post-mortem examination reportedly gave the causes of death as extensive loss of fluid and blood, severe bleeding in the brain and extensive burns on the buttocks. No action was reportedly taken to investigate this death.

1799. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2000 for which no response had been received.

Urgent appeal

1800. On 17 January 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning **Dan Mugarura**, a retired army Lieutenant, and **Pascal Gakyaro**, a Civil Aviation Authority supervisor, both alleged supporters of the Reform Agenda, an opposition political group. Dan Mugarura was reportedly arrested without a warrant on 8 January 2003, at his home in Kampala, by armed security agents in civilian clothes. The security personnel who arrested him reportedly claimed that he was taken to Central Police Station in Kampala. However, his location was unknown. He was reportedly suffering from high blood pressure, which required constant medication. Pascal Gakyaro was reportedly arrested on 12 January 2003 at his home in Kajjansi, near Kampala, by armed security agents, allegedly from the Chieftaincy of Military Intelligence (CMI). However, the Ugandan authorities approached by his family reportedly denied his arrest and detention.

Ukraine

1801. By letter dated 30 September 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur advised the Government of the Ukraine that he had received information concerning **Vladimir Fedorchenko**, his wife **Zukhra Fedorchenko**, **J. F.**, aged 6, **S. F.**, aged 6, **M. F.**, aged 3, **T. F.**, aged 15, and **Yury Fedorchenko**, aged 50, all members of the same Roma family. The family's home, located in the village of Malaya Kakhovka in the Poltava Province, was reportedly set alight in an arson attack on 28 October 2001. A senior police officer was allegedly involved in the incident. Yury Fedorchenko was reportedly hit over the head with a heavy object. A man reportedly holding a canister allegedly emptied its flammable contents around the house and over various members of the Fedorchenko family, who were allegedly sleeping at the time. The three men then allegedly lit the flammable

substance and left the house, barring the premises' main door to prevent the inhabitants from escaping. The ignition of the flammable substance reportedly caused a powerful explosion. Five people, including Vladimir Fedorchenko and his six-year-old son, J. F., as well as the minors, S. F., M. F. and Z. F., reportedly died. T. F. and Yury Fedorchenko allegedly survived the fire with burns covering 70 and 40 per cent of their bodies, respectively. An investigation was reportedly initiated.

Observations

1802. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Rights of the Child (CRC/C/15/Add.191, para. 70) about the extended period of time before detainees' families are informed of the detention, the long period of detention before having to be brought before a judge (72 hours) and the duration of pre-trial detention (18 months). It also expressed concern about the placement in isolation of children aged 11 to 18 years in juvenile reception/distribution centres under the authority of the Special Ministry, and the poor conditions in these centres and in all institutions where children are deprived of their liberty.

United Arab Emirates

1803. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001 for which no response had been received.

Follow-up to previously transmitted communications

1804. By letter dated 17 November 2003, the Government of the United Arab Emirates provided information on the cases included in a communication transmitted by the Special Rapporteur on 30 September (E/CN.4/2002/76/Add.1, paras. 1697-1699) and reminded of in his letter dated 8 October 2003 (see above).

1805. Concerning **Afzal Hamud Zu Zaman** (ibid., para. 1698), the Government informed that he was arrested on 24 June 1997 and sentenced to life imprisonment for conspiracy to manufacture and produce drugs.

1806. The Government reported that **Mohammad Koya** (ibid., para. 1699), was taken into custody on 23 May 2000 for trespassing and for committing the offence of illicit consensual intercourse with Fatima Mohammad Ra'uf. He was sentenced to 10 months in prison without parole and to deportation. Moreover, a civil judgment was handed down against him, ordering him to pay 10,900 dirhams. He was released from the remainder of his sentence under a general amnesty granted by His Royal Highness Sheikh Hamad bin Mohammad al-Sharqi, the ruler of the Emirate of Fujairah, on 29 November 2000. He was released from detention on 3 February 2001 and deported via Dubai International Airport on 14 February 2001. Concerning **Fatima Mohammad Ra'uf** (ibid.), the Government informed that she was arrested on 23 May 2000 and sentenced to one year in prison and to deportation. She was released from the remainder of her sentence under the terms of the same general amnesty. She was released from detention on 19 February 2001 and deported on 5 March 2002, having had a child during her time at the deportation facility. Neither of these persons was subjected to any form of torture during their time at the penal facility.

United Kingdom of Great Britain and Northern Ireland

Urgent appeal

1807. On 6 March 2003, the Special Rapporteur sent an urgent appeal concerning **Lili Lin** (f), a Chinese national who was reportedly held in Manchester Airport pending her deportation to China. She reportedly applied for asylum protection in the United Kingdom of Great Britain and Northern Ireland in October 2001, on the grounds of being a practitioner of Falun Gong. However, the Home Office reportedly considered that she had no well-founded reason to fear persecution if returned to China and refused her application on the grounds that few Falun Gong practitioners had been persecuted in Fujian province, the Chinese province from which she originates. As the response of the Home Office to her application was allegedly sent to her previous address, she reportedly failed to appeal the decision before the deadline. When she reported to the Home Office in Liverpool on 26 February 2003, she was allegedly told by an immigration officer that she was to be deported immediately. She was reportedly not allowed to see her husband; four policemen allegedly forced her to the floor and dragged her into a room, where she was allegedly kept for approximately five hours, during which she was reportedly not given food or water. She was reportedly subsequently transferred to a deportation centre in Manchester. Her deportation was reportedly scheduled for 7 March 2003.

1808. By letter dated 22 April 2003, the Government responded that investigations have concluded that the allegations of ill-treatment were unsubstantiated. Lili Lin was uncooperative in the detention process and the Detainee Custody Officers (DCOs) acted correctly in restraining her. The Government further stated that the DCOs did not deny contact with her husband but encouraged her to make this contact. The Government also indicated that the Home Office asylum decision letter was also issued to her representative. Finally, the Government stated that her removal had been deferred pending the outcome of her husband's asylum application and that the Integrated Casework Directorate (North) of the Immigration and Nationality Directorate had been instructed to expedite his application.

Observations

1809. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Rights of the Child (CRC/C/15/Add.188, paras. 33 and 59) about recent figures according to which almost 300 children sustained injuries as a result of restraints and measures of control applied in prison. It also expressed concern about high levels of violence, bullying, self-harm and suicide in young offenders' institutions.

United Republic of Tanzania

1810. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of the United Republic of Tanzania of a number of cases transmitted in 2001 and 2000 for which no response had been received.

United States of America

1811. By letter dated 16 June 2003, sent jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur advised the Government of the United States of America that he had received information concerning **José Padilla**, who was reportedly arrested at Chicago airport on 8 May 2002 and originally held as a “material witness” by the Department of Justice during a grand jury probe into an alleged conspiracy to detonate a radioactive “dirty bomb”. However, on 9 June 2002, the Government reportedly transferred him from the jurisdiction of the criminal justice system to military custody. The transfer to military custody was reportedly made on the basis of an order by President George W. Bush designating Jose Padilla to be an “enemy combatant” closely associated with Al-Qaida, whose detention it said was necessary to prevent him from aiding an attack on the United States. He had reportedly been held since that date in solitary confinement on a naval base in Charleston, South Carolina, without charge, trial or access to his lawyer or relatives. In December 2002, a United States district court reportedly upheld the President's authority to detain enemy combatants, even if they were American citizens, with a limited right of judicial review. However, the court also ruled that José Padilla was entitled to have consultations with his lawyer in order to respond to the Government's case. The Government reportedly appealed, arguing that granting José Padilla access to an attorney would hinder its ongoing interrogation of him.

1812. By letter dated 17 September 2003, sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information according to which a number of **anti-war protestors** were subjected to an alleged use of excessive force by Oakland police at the Port of Oakland on 7 April 2003. Police reportedly fired non-lethal weapons, including beanbags, wooden dowels and “sting ball” grenades at the demonstrators when they refused to obey police orders to disperse. At least 12 protestors and 9 longshoremen standing nearby, who were not involved in the demonstration, were allegedly injured. Those injured were reportedly hit in the back, arm, neck and face. While according to police reports, police opened fire after demonstrators began throwing rocks, concrete and steel bolts at them, the Special Rapporteurs had also received information according to which the police opened fire first, only 30 seconds after ordering demonstrators to disperse, and that they fired projectiles directly at demonstrators at close range, including the wooden dowels, which, as it is understood from reports, should be fired into the ground.

1813. By letter dated 7 October 2003, the Special Rapporteur advised the Government that he had received information according to which **detainees in Bagram Air Base**, Afghanistan, had been subjected to “stress and duress” techniques during interrogation by Central Intelligence Agency (CIA). In particular, prisoners had allegedly been subjected to prolonged standing or kneeling, hooding, blindfolding with spray-painted goggles, sleep deprivation and 24-hour lighting, and were kept in painful or awkward positions. The Special Rapporteur also advised the Government that in this connection, he had received information on **Sayed Abbasin**, who reportedly spent 40 days in the Bagram Air Base in mid 2002. There, he was reportedly held in handcuffs and shackles for the first week, forced to stand, sit or kneel for prolonged periods, kept in 24-hour lighting and woken up by guards when trying to sleep, not given enough food, and not allowed to talk to, or look at, other

detainees. He was allegedly taken to the United States base in Kandahar, roughly handled, blindfolded, with his ears covered; a black bag was placed over his head and taped around his neck, and his hands and legs were tied. Detainees in Kandahar were reportedly not allowed to look at the soldiers' faces and forced to kneel for one hour whenever they did so. He was reportedly transferred to, and kept in detention in, Camp Delta, Guantánamo military base, Cuba, where he was allegedly deprived of sleep and placed in a punishment cell for five days as punishment for exercising in his cell. While being kept there, he was reportedly not allowed his outdoor "exercise" time, not allowed to wear his cap during prayer and allegedly deprived of blankets. Sayyid Abbasin was reportedly released from Guantanamo Bay in May 2003 and returned to Afghanistan.

1814. By the same letter, the Special Rapporteur advised the Government that he had received disturbing information on the reported use by the police of certain types of non-lethal devices with potential harmful effects in a manner that may constitute cruel, inhuman or degrading treatment. In particular, the Special Rapporteur had received information on the use of Oleoresin Capsicum, or aerosol pepper spray, which is an inflammatory agent acting on the mucous membrane, causing choking and gagging as well as an acute burning sensation in the eyes. He had also received information on the use of the Conducted Energy Weapon, or M-26 Taser, reportedly described by the manufacturers as "specifically designed to stop even elite, aggressive, focused combatants" and which allegedly employs an 18 to 26 watt electrical signal to fire 50,000 volts of electricity through the target's clothing to override the motor and sensory systems and produce contraction of the muscle tissue. Doctors have reportedly denounced their harmful effect. Four deaths associated with this kind of electro-shock weapon have already reportedly occurred. In this regard, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1815. **Anthony Carty**, an African-American man, was allegedly showered with aerosol pepper spray and subsequently subdued by several New York City police officers during his arrest, following an argument at a softball game on 11 August 2002. He was allegedly sprayed again at least twice before being placed in a patrol car. He reportedly had a history of asthma and experienced breathing difficulties after he was sprayed.

1816. **C. H.**, a 15-year-old schoolgirl, was reportedly subdued by police officers who allegedly used pepper spray and a Taser electro-shock device. The incident reportedly occurred on 3 October 2002 after a school-bus driver reportedly flagged down three police officers from the city of Miramar in Florida to complain that students on the bus were being unruly and throwing paper darts. Police officers allegedly claimed that the pepper spray and an M-26 Taser gun were applied after the schoolgirl became "verbally abusive", tried to leave the scene and struck an officer.

1817. **Raymond Sterling Jr.**, a 21-year-old African-American man, was allegedly subdued by five officers from the Fort Lauderdale Police Department, Miami, and sprayed once in the face with Oleoresin Capsicum when he ran from police after being stopped for a traffic violation on 19 April 2003. He reportedly died about an hour later in the booking area of the police station, after reportedly complaining of breathing difficulties. The Broward County Medical Examiner reportedly found that

he had died from “intravascular sickling following physical exertion due to sickle cell trait” and that “reactive airway disease following OC Pepper Spray administration is a contributory cause of death”. This case was reportedly under investigation by the police department’s Internal Affairs Division.

1818. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002 and 2001 for which no response had been received.

1819. By letter dated 22 October 2003, the Special Rapporteur advised the Government that he had received information regarding the alleged conditions of detention in the Guantanamo Bay military base, Cuba. On 16 January 2002, the Special Rapporteur transmitted an urgent appeal related to this issue to which the Government responded by letter dated 3 April 2002 (E/CN.4/2003/68/Add.1, paras. 1907 and 1909). In this context, the Special Rapporteur advised the Government that he had received information according to which **Khaled Ben Mustafa**, a French national, was reportedly arrested in autumn 2001 by United States’ authorities at the border between Pakistan and Afghanistan. In January 2002, he was reportedly transferred to Guantanamo Bay military base, where he had allegedly been kept in detention since then. **Nizar Sassi**, a French national, was reportedly transferred to Guantanamo Bay military base in early 2002 following his arrest in Afghanistan. He had allegedly been kept in detention at the military base since then. **Ridouane Khalid**, a French national, was reportedly arrested in October 2001 in Pakistan and subsequently handed over to the United States’ authorities. He was allegedly transferred to Guantanamo Bay military base in October 2001 and has since then been kept in detention there. **Mourad Benchellali**, another French national, was reportedly arrested in Pakistan and transferred in early 2002 to Guantanamo Bay military base, where he had allegedly been kept in detention since then. According to the information received, during their transfer the four above-named individuals were bound to a seat during 25 hours and were not given any indication as to where they were being taken. Upon arrival at the military base, their hair and beards were reportedly forcibly shaved. According to the information received, they had been held in individual 2.4 m x 2 m open air cells, which were allegedly constantly lit. As a result, it was allegedly not possible for them to enjoy privacy. They were reportedly only allowed to leave their cells for 20 minutes each per week, during which they allegedly had no contact with any other person. In view of their alleged complete isolation, fears were expressed for their physical and mental integrity. It was further reported that they had had no access to a lawyer, their relatives or a doctor of their own choice since their respective arrest. Since July 2003, all the correspondence with their families was reportedly to be written in English. They had reportedly not been informed yet on the charges brought against them. The Special Rapporteur also reminded that in its opinion No 5/2003, the Working Group on Arbitrary Detention considered their detention to be contrary to article 9 of both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

1820. On 6 November 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to the highest attainable standard of health to the Coalition Provisional Authority, concerning **Saadi Tuma Abbas**, former Defence Minister and Labour and Social Affairs Minister for Iraq. On 7 August 2003, Mr. Abbas was reportedly arrested at his house by a number of United States

soldiers. It is reported that he was taken to Baghdad Airport and then moved to Bocca camp, Umm Qasr, in southern Iraq. He was reportedly not allowed to see his family until 9 October 2003. No charges have reportedly been brought against Mr. Abbas, and he is reported to be still in detention in poor conditions at Bocca camp. It is also alleged that despite suffering from a heart condition and high blood pressure, Mr. Abbas is being deprived of medical assistance. It is believed that he may be moved to another prison in the near future but no information has been given to him, his lawyers or relatives on this possible transfer. Fears were expressed for his physical integrity if he did not receive prompt and adequate medical treatment.

1821. By letter dated 8 December 2003, the Special Rapporteur advised the Government that he had received information according to which the relevant authorities were preparing the release of **approximately 100 detainees of different nationalities**, including from China, held at that time in Guantanamo Bay, Cuba. While the release of these detainees was welcome, concern was expressed that some of them could face human rights abuses, including torture and execution, upon return to their countries.

Urgent appeals

1822. On 3 April 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights in Afghanistan concerning **Haji Naim Kuchai**, a prominent elder of the Kuchi tribe in eastern Afghanistan, who was reportedly arrested by United States military forces at Sang-e Naweshta in Char Asiab district of Kabul province on 1 January 2003, while he was on his way to a meeting with President Karzai regarding a tribal dispute. He had reportedly been held for almost three months at an unknown location, possibly in incommunicado detention. Serious concerns were expressed regarding his health as he had been on diabetes medication for the last four years. He also allegedly wore a surgical belt following an operation in which one of his kidneys was removed. The International Committee of the Red Cross (ICRC) had delivered two letters to Haji Naim Kuchai's family, in which some sentences were blacked-out. It was however not known whether ICRC had been given access to Haji Naim Kuchai.

1823. On 1 July 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning **Ibrahim Habaci** and **Arif Ulasam**, both Turkish nationals, **Fahad al Bahli**, a Saudi Arabian national, **Mahmud Sardar Issa**, a Sudanese national, and **Khalifa Abdi Hassan**, a Kenyan national, who were reportedly arrested on 21 June 2003 in Blantyre, Malawi, in a joint operation by Malawi's National Intelligence Bureau and the United States' CIA, allegedly on suspicion of being members of Al-Qaida. While in Malawi, the five men were reportedly held in incommunicado detention at an undisclosed location. Although the Blantyre High Court reportedly ordered that they should not be deported, they were allegedly secretly transferred on 24 June 2003 to United States' custody. They were allegedly flown out of Malawi aboard a chartered flight bound for Zimbabwe escorted by United States and Malawian officials. Their whereabouts were reportedly unknown at that time.

1824. On 18 July 2003, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning

Adil al-Jazeera, an Algerian national and an alleged leading member of Al-Qaida, who was reportedly handed over to United States agents by Pakistani authorities on 13 July 2003. It was believed that he could have been taken to the United States Airbase in Bagram, Afghanistan, for further interrogation. He had reportedly been arrested on 17 June 2003 by members of Pakistan's security services in the residential district of Hayatabad in the city of Peshawar. On 13 July 2003, blindfolded and with his hands bound, he was reportedly flown out of Peshawar on a small plane in the custody of United States agents. According to the information received, in June, an unidentified Pakistani intelligence official was quoted as saying that the detainee was being subjected to "some tough questioning". Similarly, speaking on the condition of anonymity following the detainee's transfer to United States custody, an intelligence official reportedly said that he believed that Adil al-Jazeera had been taken to the Bagram Airbase in neighbouring Afghanistan.

1825. On 7 August 2003, the Special Rapporteur sent an urgent appeal concerning **Ali-Saleh Kahlah al-Marri**, a Qatari national, who was reportedly held in indefinite incommunicado detention in the United States, without formal charge, trial or access to his family or attorney. He had allegedly entered the United States legally with his wife and five children on 10 September 2001 to pursue post-graduate studies. He was reportedly arrested in December 2001 and charged with fraud and making false statements to the Federal Bureau of Investigation (FBI). He was reportedly due to stand trial on these charges in a federal court in Peoria, Illinois on 21 July 2003. However, on 23 June 2003, the prosecution reportedly told the court it was dropping the charges on the grounds that he received a presidential order for him to be detained under military custody as an "enemy combatant". The presidential order allegedly stated that Ali-Saleh Kahlah al-Marri was closely associated with Al-Qaida and presented "a continuing, present, and grave danger to the national security of the United States". On the same day, the detainee was reportedly transferred to a military detention centre near Charleston, South Carolina, where he was allegedly denied access to his lawyers and relatives.

1826. On 21 August 2003, the Special Rapporteur sent an urgent appeal concerning **Riduan Isamuddin aka Hambali**, an Indonesian national and the alleged operations chief of *Jemaah Islamiyah* (JI), a South-east Asian extremist Islamic group, with suspected links to Al-Qaida. He was reportedly arrested on 11 August 2003 in the city of Ayutthaya, Thailand, and was allegedly held in the custody of the United States at an undisclosed location for interrogation. Authorities in Indonesia reportedly publicly called for him to be transferred to their custody. Authorities from the Philippines, Singapore and Malaysia allegedly wanted him for questioning as well.

1827. On 26 November 2003, the Special Rapporteur sent an urgent appeal concerning **Maher Arar**, a Canadian citizen who was reportedly arrested at John F. Kennedy airport, in New York, on 26 September 2002 while in transit to Canada and travelling on a Canadian passport. He was reportedly held in United States custody for 13 days during which he was allegedly questioned about suspected links with Al-Qaida. On 8 October 2002 he was reportedly deported to Jordan and subsequently to the Syrian Arab Republic without being represented at any hearing and without his family, lawyer or the Canadian consulate being informed. His fears that he would face torture if taken to these countries were reportedly ignored by relevant United States authorities. During his brief stop-over in Jordan, he was allegedly shackled and

beaten. He was reportedly later driven to the Syria Arab Republic and taken to the Palestine Branch of Syrian military intelligence, also known as "Far Falestin". While in detention there, he was allegedly severely beaten with electrical cables during six days of interrogation and threatened with being subjected to electric shocks and to the "metal chair", a torture device which stretches the spine. He was allegedly held alone in a small and insalubrious basement cell without furniture, except two blankets on the floor, and without light, for more than 10 months. He allegedly had no exposure to natural light at all for the first six months. Under the pressure of the treatment reportedly received, he allegedly eventually signed a document falsely confessing to having been in Afghanistan. In relation to these allegations, the Special Rapporteur had transmitted an urgent appeal to the Government of the Syrian Arab Republic in which he had asked for clarification of the circumstances of the case with a view to ensuring the right to physical and mental integrity of Maher Arar. In the same letter, the Special Rapporteur expressed concern over allegations according to which individuals suspected of having links with terrorist organizations arrested in the United States had subsequently been deported to countries where they were at serious risk of torture or other forms of ill-treatment, which clearly contravenes the principle of non-refoulement. Deportations to third countries had reportedly been conducted without due respect for internationally recognized human rights, and the right to effective consular assistance and representation in a fair proceeding.

Follow-up to previously transmitted communications

1828. By letter dated 4 March 2003, the Government responded to a communication sent on 2 September 2002, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2003/68/Add.1, paras 1883-1887), and provided information on the following cases.

1829. Concerning **Charles Agster** (ibid., para. 1884), the Government referred to press reports related to this case but stated that the Department of Justice had no record of any complaint or investigation into the matter of Charles Agster.

1830. With regard to **Kevin Coleman** (ibid., para. 1885), the Government reported that he had died while sitting in a restraint chair at the Wade Correctional Centre in Homer, Louisiana. The matter was under review by the Criminal Section of the Civil Rights Division of the Department of Justice.

1831. Concerning **Albert Cothran** (ibid., para. 1886), the Government reported that he was reportedly found dead in a restraint chair in Columbia County Detention Centre, Florida, after he was placed in the chair due to sustained combative behavior. It was also reported that the Medical Examiner's Report found that he had suffered a heart attack while restrained in the chair. The Government also informed the Special Rapporteur that the Department of Justice had no record of any complaint or investigation into the matter.

1832. With regard to **Hazel Virginia Bayer** (ibid., para. 1887), the Government reported that she reportedly died 13 days after being found unconscious and not breathing in a restraint chair in the Johnson City Jail, Tennessee. She had been arrested for public intoxication. The Government referred to press reports related to this case but informed that the Department of Justice had no record of any complaint or investigation into this case.

1833. By letter dated 1 April 2003, the Government responded to a communication sent on 18 September 2002, jointly with the Special Rapporteur on the human rights of migrants and the Special Rapporteur on the independence of judges and lawyers, concerning the **detention of non-United States nationals since 11 September 2001** (E/CN.4/2003/68, paras 1888-1905). The Government reported that since 11 September 2001, the United States had mobilized unprecedented resources to prevent further attacks against the country while at the same time ensuring civil liberties. To this end, the Department of Justice had used the full weight of the federal justice system as a method of neutralizing potential terrorist threats by prosecuting those who violate the law and thereby pose a national security risk. In some cases the Department of Justice had prosecuted individuals for crimes not directly related to terrorism, including enforcement of its immigration laws. In this regard, the so-called September 11 investigations have led to the arrest and detention of many aliens found in the United States in violation of the Immigration and Nationality Act (INA). Their treatment while in Immigration and Naturalization Service (INS) custody was consistent with the protection afforded aliens under United States law. As for the concerns raised on the non-disclosure of a list of the identities of individuals detained on immigration law violations or who were deemed by the Government to have associations or information relating to the events of September 11 and related terrorist investigations, it was reported by the Government that such a policy was based on the professional judgment of senior law enforcement officials, including those from the Criminal Division of the Department of Justice and the FBI with leading roles into the events of September 11. Disclosure of the identities of detainees would endanger the ongoing investigations, the detainees themselves and might reveal sources and methods of investigation to terrorist organizations. The Government also stated that several actions had been taken in order to guarantee the nation's continued security and the integrity of the investigations; these include, inter alia, the following measures: withholding of public disclosures of some information regarding the detainees; closing their immigration court hearings to the public for as long as the aliens concerned remain of interest to the investigation. Making public such information could reveal roadmaps of the investigations and allow terrorist organizations to alter further attack plans, to intimidate witnesses, or to fabricate evidence. The Government also gave some details regarding the numbers of individuals detained in INS custody as a result of the so-called September 11 investigations: as of 28 March 2003, the INS had detained 766 aliens on immigration violations at some time since the attacks of September 11 and in connection with the investigations related to that event. Of these 766, 505 had been deported or had left the country voluntary. Only one of these aliens remained in custody as part of active September 11 investigations. As for individuals held on immigration charges in custody of the Department of Homeland Security (DHS), they were entitled to due process protections in accordance with United States law. (As at 1 March 2003, the former INS was abolished and its functions incorporated into the new DHS.) All detainees were notified of the removal charges against them and were given the right to contest said charges in some type of an immigration proceeding. They were also given lists of pro bono counsel and advised of their rights to retain a lawyer at no expense to the Government. They were also given the opportunity to seek release on bond, continuances to prepare their cases, an opportunity to examine the evidence against them and to apply for discretionary relief from removal, a right of appeal to the Board of Immigration Appeals and judicial review in federal courts. In addition, the United States adheres to its obligations pursuant to the Vienna Convention on

Consular Relations to notify aliens of their rights to consular notification, communication and access. The Government also reported that once an alien receives a final order of removal, that order is enforced as soon as circumstances permit; there are some aliens with final orders of removal who are still awaiting removal. DHS was making every effort to remove them from the country as soon as practicable. While detained in DHS custody, aliens were provided treatment and care. Detainees could be placed in administrative segregation (understood as detention in which restricted conditions of confinement were required to ensure the safety of detainees or others, the protection of property or the security or orderly operation of the facility) when their continued presence in the general population poses a threat to life, property staff or other detainees. All DHS detention centres and contract facilities were required by DHS detention standards to provide medical care and appropriate treatment to DHS detainees. The Public Health Service or a local provider provided such treatment.

Uruguay

Llamamiento urgente

1834. El 22 de mayo de 2003, el Relator Especial envió un llamamiento urgente sobre la situación de **Al-Sayid Hassan Mukhlis**, un ciudadano egipcio que habría sido detenido en enero de 1999, cuando habría intentado entrar en Uruguay con falsos documentos de viaje. Las autoridades egipcias habrían solicitado su extradición por su supuesta participación en acciones llevadas a cabo por *al-Gama 'a al-Islamiya*, un grupo armado islamista. El 6 de mayo de 2003, la Corte Suprema de Uruguay habría aprobado su extradición a Egipto. Sin embargo, esta decisión no sería definitiva y la decisión final de extradición dependería de un acuerdo entre los dos países sobre las condiciones de la misma. Según la información recibida, la Corte Suprema de Uruguay habría requerido al Estado egipcio garantías para un juicio justo basado en los cargos enumerados en la solicitud de extradición y para que no se aplique la pena de muerte contra esta persona. El Relator Especial acogió con beneplácito las medidas tomadas por la Corte Suprema. Sin embargo, en vista de numerosas alegaciones de tortura y otros malos tratos en contra de presuntos miembros de grupos armados islamistas extraditados en Egipto, se expresaron temores en cuanto a la integridad física y psicológica de Al-Sayid Hassan Mukhlis en el caso de que fuera extraditado a Egipto.

1835. Por cartas con fechas de 16 de junio y 17 de julio de 2003, el Gobierno informó que tal como dispuso la Corte Suprema de Justicia, las condiciones del proceso de cooperación judicial entre los dos países con fines de extradición fueron las siguientes: aceptación previa de las condiciones establecidas para la entrega del detenido definidas por la justicia uruguaya competente; no aplicación de la pena de muerte al extraditado; no aplicación de la pena de prisión perpetua; reciprocidad; descuento de la pena definitiva a recaer el tiempo de arresto efectivamente cumplido en territorio uruguayo; garantías de respeto del principio *non bis in idem* acerca de la condena que cumplió por el uso de documentación falsificada; someterlo a interrogatorios exclusivamente por las causas por las cuales se solicitó la extradición. Estas condiciones fueron comunicadas al Gobierno de Egipto pero todavía no se había recibido respuesta. Por lo tanto, el procedimiento de entrega del detenido se encontraba pendiente.

Uzbekistan

1836. By letter dated 29 September 2003, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by letters dated 15 and 19 November 2003.

1837. **Mukhammad Madaminovich Bekjanov** was reportedly arrested in Ukraine on 15 August 1999 and handed over to Uzbek authorities several days later. He and his co-defendants were allegedly subjected to electric shocks, beaten with batons and plastic bottles filled with water, kicked and asphyxiated with plastic bags during the investigation. On 18 August 1999 he was reportedly sentenced to 15 years in prison by the Tashkent Provincial Court. After the trial, he was reportedly taken to Zarafshan prison colony, where he was allegedly subjected to further torture. In October 2001 he was reportedly sent to Jaslyk prison colony 64/71, after he allegedly refused to give incriminating testimony in a case against his brother. As a result of the treatment received at Jaslyk in April and May 2002, his right leg was allegedly broken. He was reportedly subsequently transferred to Kizil-tep prison colony, and then to Zarafshan prison colony. In February 2003 he was reportedly diagnosed with tuberculosis. He reportedly did not receive any kind of treatment until 1 April 2003 when he was sent to Sangorod prison colony 64/18, a prison hospital.

1838. The Government reported that under an edict issued by the President of Uzbekistan on 3 December 2002 entitled “Amnesty on the occasion of the tenth anniversary of the adoption of the Constitution of Uzbekistan”, the portion of his sentence remaining to be served was reduced by a fifth. The Government also reported that he was kept in Jaslyk prison colony 64/71 only from April to November 2000 and that therefore he could not have broken his leg there in April or May 2002. Between 1 April 2003 and 15 July 2003, he underwent treatment at prison colony 64/18 after he was diagnosed with “focal tuberculosis of the upper portion of the right lung”. His relatives, with whom he was in contact by letter and through personal meetings, were informed of his state of health at the appropriate time. The Government stated that moral or physical pressure was exerted against the detainee while he was serving his sentence.

1839. **Murajon Musaev** and his adoptive mother, Zakhra Khajievna Musaeva, were reportedly forcibly taken by two women and a man to the Iunusabad District Department of Internal Affairs (district police station), Tashkent, on 13 July 2003. At the time of the detention, Murajon Musaev was reportedly hit by three unidentified individuals. It is believed that one of the women who detained the adoptive mother was a complainant against him in relation to a theft of money. On 14 July 2003 Murajon Musaev was reportedly detained by officers from Iunusabad police station. The mother was reportedly later released but the son was kept in custody. When a lawyer appointed by the State met him on 11 August 2003 in Iunusabad District Court, he reportedly stated that he had been beaten and that he had signed a statement confessing to all the charges because the police allegedly threatened to hurt his mother. Murajon Musaev is said to have been suffering since childhood from hepatitis B and liver cancer; he needs to go to Moscow on a regular basis and is dependent on medicines. He was reportedly transferred to the hospital ward of Tashkent prison 1. A criminal case was reportedly due to start at the Iunusabad District Court on 11 August

2003, but was eventually postponed because he did not yet have a lawyer of his choice.

1840. The Government responded that Murajon Musaev did not request any medical assistance during the time he spent in institution No. UYa 64/IZ-1 starting on 18 July 2003. He was examined at the request of his mother and hospitalized between 6 May and 5 June 2003 for treatment of chronic hepatitis B, which had reached the active stage with cirrhosis as a complication. He was sent to the National Clinical Hospital for Convicted Prisoners for further diagnostic tests. He did not lodge any complaints concerning the use of unlawful methods during his imprisonment or during the preliminary investigations.

1841. **Madumarov Odilzhon Akbarzhonovich**, a detainee at prison colony Navoi-5 64/36 since August 2001, was reportedly put in a punishment cell from 16 to 26 May 2003, after he asked an official not to insult his family. On 30 May 2003 he was reportedly severely hit and kicked by the guards after he requested permission to use the toilet. He was allegedly forced to sign false statements and subsequently placed in a punishment cell for another 15 days.

1842. The Government reported that the administration of the penal institution reported him for maliciously disrupting the prison regime, for which he had been put in the punishment cell three times. The Government further stated that while his case was being checked he refused to clarify the points set out in the Special Rapporteur's communication and he stated that he had no demands to make concerning the conditions of detention.

1843. **Abdusalom Umarov** was reportedly arrested by officers in civilian clothes from Iunusabad District Department of Internal Affairs (district police station), Tashkent, on 20 May 2003. He was reportedly transferred to the Tashkent City Department of Internal Affairs (city police station) on 23 May 2003. He was allegedly beaten and hanged upside down while in custody at the city police station. He was reportedly sentenced to eight years in prison on 15 July 2003 by the Iunusabad District Court for theft and attempted rape. He allegedly attended the trial without a lawyer and appealed to the Tashkent City Court on 18 July 2003. He was subsequently transferred to Zangiata prison. Fears had been expressed for his health, as he has a heart condition, in particular since he started passing blood in his urine.

1844. The Government reported that the preliminary investigation and the court proceedings were carried out in accordance with the requirements of the law relating to criminal procedure and that the detainee's interests were defended by a lawyer from Law Office No. 2 in Yunusabad district. The detainee lodged no complaint concerning the use of unlawful methods during the preliminary investigation or while serving his sentence. A medical examination found no signs of illness.

1845. **Abdumovlan Abdukhakorovich Rakhmonov** was reportedly arrested on 30 May 2000 by officers from the Shaikhantaur District police station who allegedly planted on him leaflets from *Hib-ut-Tahrir*. He was reportedly subsequently sentenced to 15 years in prison for anti-constitutional activity and participating in an illegal organization. In July 2002, he was reportedly taken for questioning to the headquarters of the Ministry of Internal Affairs, where he was allegedly raped. In

January 2003 he was reportedly transferred to Jaslyk prison colony 64/71, where he was reportedly held with individuals convicted of murder and frequently beaten and raped by other inmates and guards. His mother had reportedly complained several times about the treatment received by her son to the prison authority of the Ministry of Internal Affairs.

1846. The Government reported that the preliminary investigation and the court proceedings were carried out in accordance with the requirements of the law relating to criminal procedures and that no unlawful methods were used against him. A medical examination found no signs of illness.

1847. **Dmitrij Evgenevich Gaidukov** was reportedly arrested on 27 January 2002 in Iunusabad by officers from Iunusabad District police station, Tashkent. He was reportedly handcuffed to a radiator and beaten with rubber batons. He was allegedly allowed to meet with his lawyer for the first time on 29 January 2003.

1848. The Government reported that he made no complaints about the use of unlawful methods against him by personnel of the Yunusabad district internal affairs office.

1849. **Rustam Palpievich Kasimov, Anvar Azizovich Abidov, Ulugbek Turgunovich Aripov, Nodirzhan Nasirovich Zakirov, Kamoliddin Salokhiddinovich Ashrapov, Akmal Anvarovich Iakubzhanov, M. A. R.**, aged 17, **Abdukhalil Jalilovich Musakhanov, Abdurasul Abdusattorovich Abdurakhmanov, Bakhtier Khaojiakbarovich Iakubov, Shukhrat Shakirovich Zakirov** and **Shoaziz Mansurovich Abdullaev**, all accused of membership in the *Hizb-ut-Tahrir* religious group, reportedly stood trial in July 2003. They were reportedly charged with infringement of the constitutional regime, preparation or distribution of material threatening public security, creating, leading or participating in religious, extremist, separatist, fundamentalist or other illegal organizations and involving minors in anti-social behaviour. During their trial, several of them alleged that they had been subjected to torture and other forms of ill-treatment in various departments of the Ministry of Internal Affairs (police stations). On 24 July 2003, the trial was allegedly postponed for three hours because several defendants did not feel well. They claimed that they were not given enough food in Tashkent prison 1 (also known as Tashturma), where they were held, and were prevented from sleeping for an unspecified period of time. A 17-year-old witness, **K.M.B.**, reportedly retracted his testimony and stated that he was forced to testify that he knew one of the defendants. In addition, on 28 July 2003, Bakhtier Khaojiakbarovich Iakubov alleged before the court that upon arrest, on 14 April 2003, he was severely beaten by police officers from the Shaikhantaur district department of internal affairs, who reportedly forced him to sign a false statement. Abdurasul Abdusattorovich Abdurakhmanov reportedly claimed before the court that he had been treated roughly while in custody. Shoaziz Mansurovich Abdullaev reported that he was beaten at Akmal Ikramov ROVD. However, the judge ignored the allegations of torture.

1850. The Government reported that Rustam Palpievich Kasimov, Ulugbek Turgunovich Aripov, Nodirzhan Nasirovich Zakirov, Kamoliddin Salokhiddinovich Ashrapov, Akmal Anvarovich Iakubzhanov, Abdukhalil Jalilovich Musakhanov, Abdurasul Abdusattorovich Abdurakhmanov and Bakhtier Khaojiakbarovich Iakubov

denied that unlawful methods had been used against them while they were in remand, during the investigations and while they were being held in a penal institution. No complaints were lodged by them concerning the conditions of detention. Concerning Shoaziz Mansurovich Abdullaev, the Government also reported that according to his own statements, no moral or physical pressure had been exerted on him by the administrations of the institutions in which he had been serving his sentence.

1851. **Shonasyrov Ravshan, Yusupjonov Ravshan, Hojiev Shavkat, Gafurov Komiljon, Arziev Hairullo, Abdurasulov Kobiljon, Okulhujaev Ibrohimjon, Narhodjaev Ikrom, Buriev Hikmat, B. H.**, aged 17, **Kasymov Zahid, Saidbekov Hasanbek**, and **Nuridinnov Hojiakbar**, all accused of belonging to *Hizb-Ut-Tahrir*, were reportedly given sentences from 7 to 14 years in prison for infringement of the constitutional regime, preparation or distribution of material threatening public order, and creating, leading or participating in religious, extremist, separatist, fundamentalist or other illegal organizations. Additionally, **Maksumhanov Olimhon** and **Omonov Abduhalil** were both reportedly given three-year suspended sentences and were on probation. They were reportedly sentenced on 4 July 2003. The defendants were reportedly not allowed access to legal counsel and were allegedly subjected to torture before they confessed.

1852. The Government confirmed that they were sentenced on 4 July 2003. The ruling was upheld by the appeals chamber of Tashkent city court on 19 September 2003. The Government also stated that had been established that none of them had received disciplinary punishments while serving their sentences. In interviews, they denied that they had been subjected to unlawful methods during investigations or while in detention in penal institutions.

1853. **Khusniddin Khikmatov**, a man sentenced to 17 years in prison on charges deriving from his alleged membership to *Hizb-ut-Tahrir* and possession of a book on Islam, reportedly died at home on 26 May 2002 after being released from Jaslyk prison in very poor condition. His death certificate reportedly stated that he had died from a "severe intestinal illness". However, during his detention in Jaslyk prison, he was allegedly frequently beaten, including on the soles of the feet, by prison guards for refusing to ask for forgiveness from President Karimov and for refusing to sing the national anthem. In April 2002 he was reportedly put in a punishment cell for four days and severely beaten with batons because he prayed openly. As his health condition became serious, he was taken to the medical ward in Jaslyk prison, to Nukus, where he was reportedly held in custody without any medical care, and eventually to Tashkent, where he arrived on 16 May 2002. On 24 May 2002, he was reportedly released from custody and taken to Infectious Diseases Hospital No. 5 in Tashkent. He allegedly lost consciousness early on 26 May 2002 and died a few hours later. As far as the Special Rapporteur could determine, no investigation into his death had been initiated.

1854. The Government reported that the preliminary investigation and the court proceedings were carried out in accordance with the requirements of the law relating to criminal procedure and that no unlawful methods were used against him.

1855. **Ikrom Aliev**, a man convicted on charges related to his religious beliefs and affiliation who was servicing his sentence in Navoi prison, reportedly died on

9 February 2002 at his home. Two days before, on 7 February 2002, he was reportedly brought home by the police because he was paralyzed on his right side and there was a large lump on his head. Police reportedly informed his family that he was ill with tuberculosis. However, a doctor later told them that he did not have tuberculosis but was suffering from internal injuries caused by blows with a blunt object. The certificate of death reportedly stated that the cause of death was tuberculosis.

1856. The Government reported that he was held in institution No. UYa 64/36 and that he underwent treatment for tuberculosis in institution No. UYa 64/18. He was released from prison on 7 February 2002 upon completion of his sentence.

1857. **Orif Ershanov** was reportedly arrested on 5 May 2003 by members of the Karshi National Security Service (NSS). On 15 May 2003, his relatives were reportedly informed that he had died in the hospital from a combination of heart and lung disease. However, witnesses allegedly noticed bruises on his arms, a large puncture wound on his torso and large needle puncture wounds on his hands and feet.

1858. The Government reported that the detainee stated that no unlawful methods had been used against him after his arrest. On 10, 11 and 13 May 2003, while in police custody in the Karshi internal affairs office, his blood pressure rose sharply and he was subsequently hospitalized at the Kashkadarya oblast unit of the National Scientific First Aid Centre, where he was diagnosed as suffering from hypertension, serious pulmonary asthma, chronic renal insufficiency, serious anaemia, chronic bronchitis and pneumonia. Although he was treated, he died in the unit on 15 May 2003. A forensic examination found that his death resulted from hypertension, interruption of blood circulation in the brain and cerebral haemorrhage. On 31 May 2003, the Karshi town prosecutor decided not to institute criminal proceedings in the case of the death of Orif Ershanov. This decision was, however, subsequently annulled and the procurator of Kashkadarya oblast initiated a supplementary inquiry. No final decision had been taken yet.

1859. **Otamaza Gafarov**, who was due to be released in September 2003 from Chirchik prison, reportedly died there on 3 May 2003. Witnesses allegedly noticed a large wound on his head, apparently caused by a sharp object, and bruising on the back of his head. His rib cage, chest and throat were also allegedly bruised and his hands scratched. However, prison authorities reportedly informed the family that he had died of a heart attack.

1860. The Government reported that a forensic examination had established that his death resulted from acute cardiovascular insufficiency which had developed as a result of ischaemic heart disease, cardiosclerosis, pneumosclerosis and myocardial dystrophy of the parenchymal organs. No injuries were reportedly found on his corpse. It was therefore decided not to institute criminal proceedings on the grounds that no offence had been committed.

1861. By the same letter, the Special Rapporteur advised the Government that he had received new information regarding **Javlon Azimov** and **Davron Azimov**, whose cases were included in his report on his mission to Uzbekistan (see E/CN.4/2003/68/Add.2, appendix II,) and regarding their mother, **Farida Azimova**.

According to this new information, Javlon Azimov was sentenced to 13 years in prison on 22 January 2003. He reportedly appealed the case and on 30 May 2003 a Supreme Court decision overturned the verdict and sent the case back for further investigation. On 25 and 27 July 2003 his family reportedly met with an investigator from the Mirzo Ulugbek District police station in Tashkent. On 31 July 2003, two people reportedly went to the Azimov family's house, introduced themselves as employees of the Ministry of Labour, and explained that they were collecting information about the family in order to help them financially if the family met the criteria. Two individuals had allegedly been asking the neighbours about the family. On 1 August 2003, Farida Azimova reportedly went to the Ministry of Labour, where she was informed that the two persons who visited her house on the previous day did not belong to the Ministry. Fears were expressed that this could have been an attempt to intimidate the family and to frame up, planting illegal leaflets, drugs, or ammunition, because the prosecutor has reopened the investigation into both the theft and the kidnapping.

1862. The Government responded that no unlawful methods had been applied against Javlon Azimov by internal affairs personnel during the investigation.

1863. By the same letter, the Special Rapporteur also advised the Government that he had received further information regarding **Batyr Khalilov**, an alleged member of *Hizb-ut-Tahir* who was reportedly sentenced on 18 August 1999 to 17 years in prison and who was allegedly subjected to torture while in custody. His case was included in a letter sent by the Special Rapporteur on 6 June 2000 (see E/CN.4/2001/66, para. 1230). According to the new information received, in August 2000 he was sent to Jaslyk prison colony 64/71, where he was allegedly beaten, in particular with rubber clubs, put in a punishment cell in January 2001 and subjected to degrading conditions of detention. In February 2002 he was reportedly sent to Sangorod (police hospital 64/18) and on 4 March 2002 he was diagnosed with tuberculosis. Despite his poor health condition, in July 2002 he was reportedly transferred to Navoi prison colony 64/36, where he was allegedly beaten with a rubber club. His brother, **Farikh Khalilov**, whose case was also included in the above-mentioned letter sent by the Special Rapporteur (see *ibid.*), was reportedly sent to Zarafshan 64/48 prison colony, where he was allegedly beaten on the head with a rubber baton, put in a dark punishment cell for 64 days and given food only every second day. He was reportedly sent to Sangorod in October 2000, where he was allegedly denied access to his family for one month, and diagnosed with tuberculosis. He reportedly died on 19 December 2000.

1864. The Government reported that while serving his sentence, Batyr Khalilov received disciplinary punishments on several occasions for violation of the prison regulations. He was being held at institution No. UYa 64/T-1. The Government also reported that on 22 October 2000, Farikh Khalilov was transferred from institution no. UYa 64/48 to institution no. UYa 64/18 to undergo treatment for infiltrative tuberculosis of the left lung that was at the stage of dissociation and dissemination. The Government confirmed that he died on 19 December 2000.

1865. By letter dated 29 September 2003, sent jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information

according to which approximately **40 women** demonstrated on 7 March 2003 in a public square in Tashkent against the torture of their detained husbands and sons. The police reportedly blocked all exits to the square and severely hit several women, who were allegedly forced to get into a police vehicle. At least two of them were allegedly kept in detention. After these events, a group of women who were not present during the demonstration and who were believed to have links with the police allegedly arrived at the square and made false accusations against **Youssef Rasoulov**, **Khousniddin Koutbitdinov** and **Mirasror Akhronov**, three journalists who had reportedly witnessed the breaking-up of the demonstration. They were allegedly accused by the women of having beaten the demonstrators. The journalists were reportedly thrown to the ground and hit by men who had accompanied the women. Their equipment was allegedly taken away. The police, who were reportedly close by, allegedly did not intervene, despite the journalists' calls for help.

1866. By letter dated 14 November 2003, the Government confirmed that a group of men and women gathering in the Sabir Rakhimov district of Tashkent on 7 March 2003 used violence against Khousniddin Koutbitdinov and later assaulted Youssef Rasoulov. The Government further reported that the investigative division of the Sabir Rakhimov District Internal Affairs Administration had initiated a criminal case in connection with these facts. In this context, citizens living in the vicinity of the scene, as well as Khousniddin Koutbitdinov and Youssef Rasoulov, were questioned and a forensic medical examination was conducted. However, in view of the fact that it was not possible to identify the persons involved, proceedings in the robbery of the journalists were suspended on 18 May 2003. Investigative operations regarding the journalists' assailants were still being pursued.

1867. By letter dated 29 September 2003, sent jointly with the Special Representative of the Secretary-General on human rights defenders, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by letter dated 26 November 2003.

1868. **Mutabar Tadjibaeva** (f), a journalist, was allegedly arrested, hit and detained for 13 days in June 2002. It is also alleged that in April 2003, she was the victim of a defamation campaign.

1869. The Government reported that she was taken to the Internal Affairs Department of the Qirguli District by officers of a traffic control unit after she reportedly insulted them. She was held until the next day at the premises of the above-said department. The Qirguli District Court ruled that a judicial warning should be issued to her. However, that ruling was appealed and subsequently cancelled. The Government also reported that an investigation into allegations of beatings was launched by the Ferghana City Prosecutor's Office. Owing to the absence of a criminal act by the law enforcement officers, the investigation was concluded on 16 December 2002. This decision was considered as legal by the Office of the General Prosecutor.

1870. **Abdousalom Ergachev**, a human rights defender who has written several articles on the human rights situation in Uzbekistan, was reportedly arrested along with a friend on 28 March 2003. They were reportedly hit and insulted and taken to a

police station without being informed of the charges against them. On 30 March 2003, both men were reportedly accused of having stolen a suit and forced to sign false statements. The alleged victim of the theft himself reportedly denied the incident. He was allegedly found the next day in critical condition.

1871. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002, 2001, 2000, 1999, 1998 and 1996 for which no response had been received.

Urgent appeals

1872. On 16 January 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning **Azamat Uteev**, aged 21, **Ilkhom Karimov**, aged 22, and **Evgeny Gugnin**, aged 22, who were reportedly in imminent danger of execution. Azamat Uteev was reportedly sentenced to death on 28 June 2002 by the Supreme Court of the Autonomous Republic of Karakalpakstan on murder charges. He was allegedly tortured by police officers and officers from the procurator's office in Nukus. A gas mask was allegedly put on his face to asphyxiate him and he was reportedly taken to the salt lakes in the desert area near Nukus, where his head was allegedly held under water several times so that he swallowed a lot of the salty water. Azamat Uteev reportedly retracted his confession at the beginning of the court hearing, stating that he had been tortured to force him to confess. However, the court reportedly ignored his statement and did not open an investigation into the allegations. Ilkhom Karimov and Evgeny Gugnin were reportedly sentenced to death by the Tashkent City Court on 28 October 2002. They were both reportedly severely beaten in pre-trial detention. Evgeny Gugnin allegedly confessed because the officers threatened to kill his mother and younger brother.

1873. On 12 February 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning **Abror Isayev**, aged 18, and **Nadyrbek Karimon**, aged 22, who were reportedly sentenced to death by Tashkent District Court on 23 December 2002. They were reportedly beaten and subjected to other ill-treatment in pre-trial detention in order to force them to confess. In both cases, the judge allegedly refused to take into account their allegations of torture.

1874. On 12 February 2003, the Special Rapporteur sent an urgent appeal concerning **Nabigeon Mirzanov**, who was reportedly accused of extortion and arrested by agents from the Federal Security Service on 13 November 2002. He was reportedly severely beaten at the time of his arrest. He was allegedly not able to stand up by himself during a trial hearing that took place on 17 January 2003. He was also allegedly left naked for 24 hours during his interrogation, as a result of which he was reportedly suffering from bronchial problems.

1875. On 28 April 2003, the Special Rapporteur sent an urgent appeal concerning **Abdurakhim Akhatovich Tashpulatov**, who was reportedly arrested on 10 August 2000 by officers from the Akmal Ikramov district police station and sentenced on 20 December 2000 to 10 years of imprisonment on the grounds of belonging to *Hizb-ut-Tahrir*. His sentence was allegedly subsequently reduced to seven years of imprisonment. He was allegedly severely beaten during initial investigation at the

Akmal Ikramov district police station. In February 2001, while in detention at 64/51 Kasan prison colony, he was reportedly put in a very cold cell, where he was forced to take off his clothes and the guards allegedly poured cold water over him. He was allegedly repeatedly raped by guards while held in this cell. He reportedly contracted tuberculosis in 64/51 Kasan prison colony and was consequently taken to Sangorod prison hospital. However, he allegedly received insufficient food and the medicine given to him by his relatives was reportedly confiscated by the doctors. Abdurakhim Akhatovich Tashpulatov was reportedly transferred in a poor condition from Sangorod prison hospital to Navoi prison colony, where it was unlikely that he would receive any kind of medical attention. His family was allegedly not informed about this transfer. On 21 April 2003, his mother was allegedly asked by the head of the department for the fight against terrorism of the Ministry of Internal Affairs why she had complained to the United Nations Commission on Human Rights about her son's situation.

1876. By letter dated 18 July 2003, the Government responded that he was not confined in a punishment cell while held in 64/51 Kasan prison colony. The Government further reported that during a routine medical examination, he was found to be suffering from tuberculosis and that he was consequently hospitalized from 24 March 2002 to 18 April 2003. Medicines received from his relatives on two occasions were fully used for his treatment. He was moved to a specialist institution in Navoi City after he improved as a result of the treatment received. After a medical examination conducted on 22 May 2003, the doctors described his condition as medium-serious, but stable. Finally, the Government stated that reports that he had been placed in a cold room and then had cold water poured over him, and that he was raped by warders from that institution had not been substantiated.

1877. On 13 May 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning **Muzzaffar Mirzaev**, who was reportedly sentenced to death for murder on 26 September 2002 by Tashkent City Court. This sentence was reportedly upheld and all appeals filed by his family rejected. He was on death row in Tashkent prison and he was reportedly at risk of being executed at any time. His father, Rustam Mirzaev, reportedly committed suicide after his son was sentenced. In this urgent appeal, the Special Rapporteurs also referred to the case of **Abror Isaev** and **Nodirebek Karimov**, which was included in an urgent appeal sent on 12 February 2003 (see above).

1878. On 5 June 2003, 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, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative on human rights defenders concerning **Ruslan Sharipov**, an Uzbek human rights activist and independent journalist who was allegedly arrested on 26 May 2003 and charged with having committed homosexual acts. He was reportedly detained in Mirzo-Ulugbek District Police Department of Tashkent city, where he was allegedly hit by the police several times and threatened with rape with a bottle. Two of his colleagues, **Azamat Mamankulov** and **Oleg Sarapulov**, were allegedly also arrested but reportedly had still not been charged.

1879. By letters dated 18 July 2003 and 11 September 2003, the Government responded that all acts of law enforcement bodies had been carried out in accordance with domestic and international law, and provided information on the criminal proceedings against the above-named persons. While proceedings against Oleg Sarapulov and Azamat Muminkulov were terminated, criminal proceedings against Ruslan Shapirov and another defendant were assigned to the procurator of the Mirzo-Ulugbek district of Tashkent, who confirmed the bill of indictment and submitted the case for trial to the Mirzo-Ulugbek district court. Both defendants were provided with counsel. The court eventually found Ruslan Sharipov guilty of having induced two minors to engage in sexual relations for remuneration and committing acts of sodomy with them. He had been held in the remand centre of institution No. UYa 64/IZ-1 in Tashkent since 8 June 2003. He did not complain about his health condition or illegal actions by representatives of the administration. On 17 August 2003, he filed an appeal against the court's decision and the case was at that time being prepared for consideration in an appellate body.

1880. On 11 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers concerning **Khamila Ismailova** (f), who was reportedly severely beaten by unknown attackers in her home in Shurchi, Surkhandaria province, on 13 May 2003. Her husband, **Ergash Choriev**, who was allegedly also assaulted during this incident, is reported to have died as a result of the beatings. Ergash Choriev allegedly worked as an auditor for the prosecutor's office and he had recently audited a Government-owned enterprise. He reportedly informed his wife and the chief prosecutor of Denau, Surkhandaria, that he was concerned for his safety. After this incident, Khamila Ismailova was taken to Shurchi City Hospital where, despite her poor condition, she was allegedly interrogated for several hours by the police. She was reportedly taken away from the hospital by two men on 14 May 2003, although the medical personnel advised that she was too ill to be moved. Her relatives were reportedly not informed of her whereabouts for two days, during which she was allegedly transferred to a hospital in Termez, where she was allegedly subjected to further interrogations by the police and officers from the Ministry of Internal Affairs. She was reportedly taken to Termez prison on 3 June 2003 and not allowed to see her lawyer until the following day and only in the presence of the prosecutor. Khamila Ismailova allegedly eventually signed a confession that she had murdered her husband. The police reportedly claimed that her injuries were self-inflicted. On 9 June 2003 a new lawyer hired by the family was reportedly denied access to her by the Chief of the Investigation Department at the Surkhandaria Province Prosecutor's office. She was allegedly being held at Termez prison.

1881. By letter dated 19 August 2003, the Government responded that on 13 May 2003 the Surhan-Darya provincial procurator's office instituted criminal proceedings relating to this matter and that the case was being investigated at the time the communication was received. She was released from custody on 16 June 2003 as there was insufficient evidence of her involvement in the offence in question. The Government affirmed that, from 3 June 2003, the date of her arrest, the investigative actions relating to her were conducted with the participation of a lawyer from the town of Termiz, and since 9 June 2003, she was represented by a lawyer who was assigned by her family. According to the Government, during the course of the

investigation, she never complained of any use of unlawful methods against her. The Government stated that allegations according to which she signed a confession of murder were unfounded. Finally, the Government informed the Special Rapporteur that the Office of the Procurator-General was monitoring the progress of the investigation.

1882. On 13 June 2003, the Special Rapporteur sent an urgent appeal concerning **C.U.**, aged 17, who was reportedly arrested in his home by 10 police officers from the Akhangaran District Police Station, Tashkent Province, in connection with his alleged involvement in a fight in January 2003. It was believed that his arrest could have been connected to a complaint he had allegedly made to the Akhangaran District Prosecutor's office requesting it to take action against adults who had sent minors on board trains at the local station to steal. C.U. was reportedly first taken to Akhangaran District Police Station before being transferred to Tashkent prison, where he was reportedly being held. He was allegedly denied access to his lawyer and only permitted one meeting with his father, on 18 May 2003. The minor complained that he had been beaten on the head by a second lieutenant while in custody at the Akhangaran District Police Station and that he had been beaten with rubber batons at the Tashkent prison. A complaint had been filed with the Tashkent Province Prosecutor's Office and the Ombudsman, but to no avail. A case against the minor was allegedly scheduled for 13 June 2003.

1883. By letter dated 5 August 2003, the Government responded that C.U. had been arrested after he entered the house of a woman for the purpose of theft, and assaulted her with intent to rob, threatening her with murder and stealing money from her. The Government reported that an investigation had established that C.U. did not submit any complaint to the district procurator's office regarding persons sending juveniles onto trains to carry out thefts. The Government further reported that the minor made no complaints regarding the conditions of detention and that he denied that he had been beaten by officers in remand centre UYa 64/SI-1. On the other hand, the Ohangaron district procurator's office found the allegations that he had been beaten in the Ohangaron district internal affairs office unsubstantiated. Accordingly, on 22 July 2003, the application to bring criminal proceedings against officers of the Ohangaron district internal affairs office was refused for lack of evidence.

1884. On 13 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning **Jamoliddin Karimov**, who was reportedly sentenced to 18 years in prison for anti-constitutional activities. On 3 August 2002, in the basement of Jaslyk prison colony 64/71, he was reportedly beaten so badly that his collarbone broke. Reports also indicated that two other inmates, **Muzaffar Avazov** and **Khusniddin Olimov**, who were in the basement at the same time, were allegedly tortured to death several days later. Jamoliddin Karimov's sister, who visited him on 26 January 2003, reportedly complained to the Ministry of Internal Affairs and requested his transfer to Sangorod prison colony 64/18 (prison hospital). On 4 March 2003, Jamoliddin Karimov was reportedly taken to Sangorod and brought back to Jaslyk prison on 13 March 2003, allegedly without having received proper medical treatment for both the pain in his lungs and for removing the wire that was inserted when he broke his collarbone. On 5 May 2003, he was reportedly sentenced to three years in Korovulbozor high security prison 64/65 in Bukhara Province. On 27 May 2003, Jamoliddin Karimov was

reportedly transferred from Sangorod to Tashkent prison. The wire was reportedly causing him to bleed and he was coughing blood.

1885. By letter dated 21 July 2003, the Government responded that he fell on 10 August 2002 while taking a shower in Jaslyk prison colony 64/71, which damaged the soft tissue of the left supra- and sub-clavicular region. This was confirmed by Jamoliddin Karimov himself and other inmates and the head of the facility's medical unit in their written explanations addressed to the chief of the correctional facility.

1886. On 25 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative on human rights defenders concerning **Iskander Khudoberganov**, whose appeal against his death sentence was reportedly turned down by the Court of Appeals of the Supreme Court on 29 April 2003. The United Nations Human Rights Committee (HRC) had requested the Government to stay his execution while the case was being considered by the HRC. Since three other men on behalf of whom the HRC had made a similar request to the Government had reportedly been executed in May 2003, fears were expressed that Iskander Khudoberganov could be executed as well. Concern was also expressed that while in custody he had been beaten, denied food, deprived of sleep and threatened that his female relatives would be raped in order to make him sign a confession. An urgent appeal was sent by the Special Rapporteur in connection with this case on 22 November 2002 (see E/CN.4/2003/68/Add.1, para. 1929). On 6 December 2002, the Special Rapporteur, during his visit to Uzbekistan, handed over a second urgent appeal on behalf of Iskander Khudoberganov and his co-defendants, Bekzod Kasymbekov and Nosirkhon Khakimov (see E/CN.4/2003/68/Add.2, para. 37). In addition, it was reported Iskander Khudoberganov's family was facing continued harassment from members of the Uzbek National Security Service (SNB). **Dilobar Khudoberganova**, his sister, and active member of the human rights organization "Mothers against the death penalty and torture in Uzbekistan", is believed to have been followed by SNB agents, who had allegedly slandered her publicly and attempted to prevent her from carrying out her human rights activities. The harassment against her allegedly increased since the annual meeting of the European Bank for Reconstruction and Development held in Tashkent in May 2003, during which she reportedly spoke about the human rights situation in Uzbekistan.

1887. On 26 June 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning **Abror Isaev**, aged 19, **Nodirbek Karimov**, aged 22, and **Muzaffar Mirzaev**, aged 29, whose cases were already included in a joint urgent appeal sent with the Special Rapporteur on extrajudicial, summary or arbitrary executions on 13 May 2003 (see above). The case of Nodirbek Karimov was also addressed in an urgent appeal sent by the Special Rapporteur on 12 February 2003 (see above). This urgent appeal also concerned **Evgeny Gugin**, **Azamat Uteev** and **Ilkhom Karimov**, whose cases were included in a joint urgent appeal sent with the Special Rapporteur on extrajudicial, summary or arbitrary executions on 16 January 2003 (see above), as well as **Maksud Ismailov** and **Farid Nasibullin**. According to the new information received, there were strong indications that Azamat Uteev, Ilkhom Babazhanov and Maksud Ismailov had been executed despite interventions of the HRC on their behalf. In view of these allegations, fears were expressed that Evgeny Gugin, Farid Nasibullin,

Abror Isaev, Nodirbek Karimov and Muzaffar Mirzaev, whose cases were also under consideration by the HRC, could also be executed imminently. Evgeny Gugin, Farid Nasibullin and Abror Isaev had reportedly been beaten while in custody, in particular during the investigation which led to their conviction. Muzaffar Mirzaev was believed to be mentally ill.

1888. By letter dated 16 July 2003, the Government responded to urgent appeals transmitted by the Special Rapporteur concerning cases of death sentences, and in particular concerning the following cases. The Government informed that the execution of the sentences of Iksander Khudayberganov, Abror Isaev, Nodirbek Karimov and Farid Nasibulin had been suspended until the Clemency Commission under the Office of the President of Uzbekistan could consider it. The Government confirmed that the death sentences against Muzaffar Mirzaev, Azamat Utaev, Illkhom Babazhanov and Maksud Ismoilov had been carried out. The Government alleged that no violation of the prisoners' human rights, including torture and other forms of ill-treatment, had taken place during the investigation, trial proceedings or imprisonment.

1889. On 30 June 2003, the Special Rapporteur sent an urgent appeal concerning **Arabjon Sultanov**, who was currently serving a 10-year sentence of imprisonment pronounced by the Zangiotinsk regional court in 2000. He was allegedly sentenced for membership in *Hizb-ut-Tahrir* under articles 159, 216, 244-1 and 244-2 of the Criminal Code. While in Settlement of Punishment Execution (SPE), he was subjected to severe ill-treatment which allegedly resulted in heart disease, a stomach ulcer and generally impaired health, which aggravated his goitre. He was reportedly taken to the republican hospital of the Administration of Punishment Execution (APE MIA) in Tashkent City in early June 2003. The Main Administration of Punishment Execution (MAPE MIA) allegedly promised to release him from detention in view of his serious health condition but had so far reportedly not fulfilled this engagement.

1890. By letter dated 28 July 2003, the Government responded that he was diagnosed with diffuse toxic goitre, moderate thyrotoxicosis and chronic ulceration of the duodenal bulb. As his condition improved after the treatment, he was returned to correctional institution 64/29 on 2 July 2003. The Government reported that Arabjon Sultanov had never filed a complaint regarding his conditions of detention or unlawful actions taken against him by the authorities or against the medical staff. The issue of excusing him from serving the remainder of his punishment on medical grounds had not been raised. Finally, the Government stated that the information received by the Special Rapporteur was not true and that his physical and mental state was protected by law.

1891. On 4 July 2003, 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, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers concerning **Hairulla Ernazarov**, a citizen of Samarkand Oblast, Narpai region, and former journalist, who was reportedly arrested on 28 April 2003 by officers of the Service of National Security (SNS) in his apartment in Tashkent City without being given a reason at that time. Three days later, his wife was allegedly informed by an SNS officer that he had been wanted for three years for distributing audiocassettes of

an Islamic preacher. Hairulla Ernazarov was reportedly taken to the Isolation Investigation Centre of the Samarkand SNS. His wife, who reportedly attempted to visit him on 10 and 11 May 2003, was allegedly not permitted to do so, nor was she allowed to deliver food and clothing for her husband. At that time, the Samarkand deputy procurator allegedly informed her that there was no criminal case against him in the prosecutor's office. A court proceeding against him reportedly began on 17 June 2003. His lawyers were allegedly not permitted to participate in the judicial proceedings. He was reportedly charged with being connected with *Vahhabism* and being a member of the *Hizb-Ut-Tahrir* party. Since his arrest, he had reportedly not been permitted to receive visits from his relatives and from his lawyers.

1892. By letters dated 5 and 26 August 2003, the Government responded that during the pre-trial investigation, the detainee's interests were defended by a lawyer from the Bagishamal district lawyers' association in Samarkand, who also participated in the trial. The due process of law in the investigation of this case was ensured by the procurator's office of Samarkand province. The Government stated that the detainee's wife explained in the court that during the investigation she had made no application to visit her husband. However, the Government also indicated that she visited him twice, once before the trial and once after the the sentence was pronounced. Finally, the Government reported that no unlawful methods were applied against the detainee after his arrest or during the criminal investigation and that he had lodged no complaint with the relevant authorities regarding this matter.

1893. On 4 August 2003, the Special Rapporteur sent an urgent appeal concerning **Rakhima Akhmadalieva** and other women prisoners, specially Muslim women, reportedly **inmates at a jail known as KIN-7 (64/7)** in Tashkent. Rakhima Adkhmadalieva reportedly never received any medical attention while she was held in prison despite her allegedly severe heart condition. Seven Muslim women were reportedly placed in a special punishment cell (DZO) for requesting medical treatment for Rakhima. DZO is reported to be a very small and unsanitary cell with water on the floor. Access to food very reportedly limited. Twenty-one women reportedly appealed in an open letter to the President of Uzbekistan to take action regarding the general conditions of imprisonment at the jail.

1894. On 13 August 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on human rights defenders concerning **Ruslan Sharipov**, whose case was also included in a joint urgent appeal sent on 5 June 2003 (see above). According to new information received, his closed-door trial began on 23 July 2003 in Tashkent. On 8 August 2003, he allegedly waived his right to counsel, reportedly declared his intention to plead guilty to all charges, and asked that his mother, who was the only outside observer to the proceedings, be dismissed from the courtroom. He allegedly offered to publicly beg for the forgiveness of President Karimov, the Minister of the Interior and local police, and retracted all Internet news articles critical of the Government that he had written from 2001 to 2003. Fears were expressed that his statements could have been the result of the treatment to which he was allegedly subjected while in detention, as reports indicated that he could have changed his line of defence for fear of his safety and that of his mothers and lawyers.

1895. On 21 August 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion concerning **Khairullo Khudoerovich Ernazarov** (also spelled **Hairulla Ernazarov**—see above urgent appeal sent on 4 July 2003). He was reportedly found guilty of anti-constitutional activities, distributing literature that threatens public security and order, and participating in an illegal organization. He was reportedly sentenced to seven years in a strict regime prison by the Samarkand Provincial Court on 23 July 2003. The judge allegedly relied on written testimonies given during the investigation by eight people convicted of similar charges in March 2001. This investigation was carried out by the National Security Service. All the witnesses at that time serving prison sentences, reportedly retracted their testimonies during Khairullo Khudoerovich Ernazarov's trial. Reports received indicated that **Musurmon Melikhlov** testified in court that he had been given electric shocks during the investigation and that he had been forced to write and sign whatever the investigator said, the latter promising his release if he wrote the testimony; that **Ibrokhim Ishmanov** testified in court that he had been beaten during investigation and that employees from the National Security Service dictated what he should write and forced him to sign; that **Sirozhiddin Rakhimov, Ulugbek Saidov, Tuichi Kholikulov, Abduvakhob Khakimov, Mukhiddin Mamatov** and **Olim Norbaev** testified in court that they had been forced to write testimonies against Khairullo Khudoerovich Ernazarov. The judge reportedly found that these allegations of torture were groundless. On 12 August 2003, a decision by three judges of the Samarkand Provincial Court reportedly upheld the initial verdict.

1896. By letter dated 26 August 2003, the Government responded to these allegations in its reply to the urgent appeal transmitted on 4 July 2003 (see above).

1897. On 1 September 2003, 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 the Special Rapporteur on the right to health concerning **Bakhodir Saidov**, who was reportedly arrested on 17 June 2002 in Tashkent for membership in *Hizb ut-Tahrir* and sentenced by the Akmal Ikramov District Court in Tashkent on 18 December 2002 for sedition, spreading extremist materials and participation in a religious extremist organization to nine years in prison. He was reportedly transferred to prison No. 64/49 in the city of Karshi, where he was allegedly regularly beaten by prison guards and at least once placed in a tiny punishment cell where there was only room to stand, not to sit or lie down. Serious fears were expressed concerning his deteriorated health.

1898. On 4 September 2003, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders concerning **Surat Ikramov**, a leading member of the Independent Group for Human Rights Defenders in Tashkent who was reportedly abducted, taken to the outskirts of Tashkent and severely beaten by four masked men in black masks and camouflage uniforms on 28 August 2003. He was reportedly later abandoned by the Chirchik River. Prior to this event, Surat Ikramov had allegedly received several threatening phone-calls. Concern was expressed that this incident could be directly connected to his work as a public defender for Ruslan Sharipov, whose case was the subject of urgent appeals transmitted on 5 June 2003, 13 August 2003 and 1 October 2003 (see above and below).

1899. On 1 October 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative on human rights defenders concerning **Ruslan Sharipov**, a human rights activist and journalist, for whom previous urgent appeals had been sent on 5 June 2003 and 13 August 2003 (see above). According to new information received, Ruslan Sharipov was found guilty on 13 August 2003 of homosexuality, inciting minors to anti-social behaviour and sexual relations with a minor, despite the fact that forensic medical tests conducted after his arrest allegedly found no evidence that he had had sexual relations with minors. He was reportedly sentenced to five and a half years in prison. In a statement written from prison on 5 September 2003 addressed to the United Nations Secretary-General, Ruslan Sharipov reportedly claimed he had been subjected to torture and threats while in detention. At an appeal hearing that took place on 25 September 2003, during which his sentence was reduced to four years on appeal after charges of inciting minors to anti-social behaviour were dropped, Ruslan Sharipov's face was reportedly injured and his glasses were broken.

1900. On 22 October 2003, 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, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative on human rights defenders concerning **Fatima Mukadirova**, mother of Muzafar Avazov, a prisoner who reportedly died of torture, including being submerged in boiling water, in August 2002 in Jaslyk prison (see E/CN.4/2003/68/Add.1, para. 1921 and E/CN.4/2003/68/Add.2, para. 52). According to the new information received, after the death of her son, she was threatened by the authorities not to complain to international organizations about her son's case. Nevertheless, she met with the Special Rapporteur on torture during his visit to Uzbekistan in 2002. On 4 September 2003, officers from the Tashkent City Police Station reportedly conducted a search of her house without a warrant. The police allegedly claimed to have found religious leaflets and a religious book, and detained Fatima Mukadirova and held her for two days at the Tashkent City Police Station. She was reportedly charged with anti-constitutional activities. Fatima Mukadirova claimed that the religious material did not belong to her. On 19 October 2003, officers from the Tashkent City Police Station reportedly again searched her house while she was not at home. The police allegedly claimed to have found more religious leaflets and subsequently arrested her at the Chorsu bazaar, where she was working. She was reportedly being held in custody in the Tashkent City Police Station.

1901. By letter dated 28 November 2003, the Government responded that the examination of the criminal case against her was continuing. The Government also indicated that the department of investigations and internal bodies of the Procurator-General's Office had arranged to oversee the preliminary examination of this case, which was being conducted by the investigative department of the Tashkent City Internal Affairs Authority.

1902. On 11 November 2003, the Special Rapporteur sent an urgent appeal concerning **Umid Mulayarov**, who was reportedly arrested by the police in Andijan on 6 September 2001 and charged under article 159 of the Uzbek Criminal Code with anti-constitutional activities, allegedly in connection with his religious practices. He is

alleged to have been tortured by the police while in pre-trial detention with a view to forcing him to confess to belonging to *Hizb ut-Tahrir*. He was reportedly found guilty by the Andijan City Court in January 2002 and sentenced to 14 years in prison. He was reportedly serving his sentence in Kiziltepa Prison 64/47, in Navoi Province, where he was allegedly repeatedly beaten on the soles of the feet with metal rods and placed four times in solitary confinement between April and August 2003 because he had allegedly prayed and spoken to other individuals imprisoned on religious grounds. Fears were expressed that Umid Mulayarov could be at risk of further torture or other forms of ill-treatment. Prisoners convicted under article 159 reportedly endure particularly harsh treatment in Kiziltepa Prison 64/47. It was also reported that Umid Mulayarov was suffering from stomach problems and a blood disorder.

1903. By letter dated 10 December 2003, the Government responded that while serving his sentence in institution No. UYa 64/47 since 25 February 2002, Umid Mulayarov had repeatedly committed grave violations of the prison regime, for which the prison administration imposed the following disciplinary penalties: on 7 March and 18 September 2002 he was given a reprimand; on 7 March 2003 he was placed in the disciplinary unit for 15 days; on 7 and 20 June 2003 he was placed in the disciplinary unit for 10 days each time; and on 9 August 2003 he was placed in the disciplinary unit for seven days. The Government indicated that he was not placed in a punishment cell. It further reported that on 16 May 2003 he went to the institution's medical unit, where he received appropriate treatment for an acute episode of chronic gastritis and chronic bronchitis. At the time of responding to the urgent appeal, his health was satisfactory. The detainee was in contact with his relatives by mail and received food and clothing parcels from them. On 2 October 2003, he was granted a three-hour visit with his wife. According to the Government, no request had been made by his wife to transfer him to another institution closer to his family.

Follow-up to previously transmitted communications

1904. By letter dated 3 February 2003, the Government provided information concerning two cases included in a communication sent by the Special Rapporteur on 2 September 2002.

1905. Concerning **Dilshod Eschonkhonov** (E/CN.4/2003/68/Add.1, para. 1913), the Government responded that there was no person of that name and age residing at the Dzhizak region taken to the internal affairs agencies of the Dzhizak region.

1906. Concerning **Shahzoda Ergasheva** (f) (*ibid.*, para. 1915), the Government reported that she had not been detained by the Yunus-Obod district Department of Internal Affairs of Tashkent city.

1907. By letter dated 8 December 2003, the Government provided information on cases transmitted in the past and reminded of by the Special Rapporteur in his communication dated 8 October 2003 (see above).

1908. Concerning **Nahmiddin Djuvashev (Dzhuvashv Nakhmiddin Umarulovich)** (E/CN.4/2002/76/Add.1, para. 1734), the Government reported that on 15 January 2001, the Dzhizak oblast court sentenced him to 13 years and six

months of deprivation of liberty and that he was subsequently placed in institution No. UYa 64/6.

1909. Concerning **Okoidin Khajimukhamedov (Khodzhimukhamedov Okoidin Kuchkarovich)** (ibid., para. 1741), the Government reported that he was arrested after he threw a grenade at police officers and confirmed that he had been sentenced to death.

1910. Concerning **Dmitry Popov** (ibid., para. 1742), the Government indicated that a forensic examination showed that he had died from severe damage to the brain from a brain haemorrhage. The Government confirmed that criminal proceedings were instituted by the Chirchik military procurator's office and reported that a junior sergeant was sentenced to 18 years of deprivation of liberty for deliberate infliction of serious bodily harm leading to death, extortion and abuse of authority leading to death. Three soldiers were also sentenced to 14 and 15 years of deprivation of liberty for a "breach of regulations governing relations among military personnel in the absence of hierarchical relations among them, leading to the death of a person". However, the four convicted men had their sentences reduced by a quarter under the amnesty of 28 August 2000.

1911. Concerning **Numon Saidaminov** (ibid., para. 1743), the Government reported that after he complained of chest pains to the remand centre authorities on 7 October 2000, first aid was summoned, but the doctors were unable to save him. The Government stated that according to a forensic examination, his death was due to acute coronary insufficiency and that no injuries were observed on his body. Following a preliminary investigation conducted by the procurator's office of Yumus Abad district in Tashkent, it was decided on 3 November 2000 not to institute criminal proceedings. On 28 June 2002, the file was reviewed in the office of the Procurator-General. No grounds were found for reversing the decision.

1912. Concerning **Emin Usman (Usmanov Iminzhon Niyazovich)** (ibid., para. 1744), the Government reported that he hanged himself in his remand cell at the Ministry of Internal Affairs on 26 February 2001 and that he died on 28 February 2001, despite medical attention given to him in clinical hospital No. 1 in Mirabad district in Tashkent. A forensic examination recorded injuries characteristic of asphyxiation by hanging but no other injuries were noted. On 10 April 2001, the Tashkent procurator's office decided not to institute criminal proceedings in connection with this death. The decision was endorsed by the office of the Procurator-General.

1913. Concerning **Nadira Khidoyatova** and **Asia Turaniyazova** (ibid., para. 1747), the Government reported that they were sentenced to five and three years of deprivation of liberty respectively on 3 April 1996. The Government provided no information regarding the allegations that the two women were forced to undergo abortions.

1914. Concerning **Vitalii Ponomarev** and **Nikolai Motrokhin** (E/CN.4/2001/66/Add.1, para. 1227), the Government reported that they had not lodged a complaint about the alleged beatings and that no information in this regard had been processed by the law enforcement agencies.

1915. Concerning **Talib Mamadzhanov** (ibid., para. 1228), the Government indicated that the Supreme Court had sentenced him to death on 6 July 1998 and that the sentence became enforceable on 30 September 1998.

1916. Concerning **Farkhod Usmanov** (ibid., para. 1247), the Government confirmed that he died on 26 June 1999 in a Ministry of Internal Affairs remand centre. No further information on the circumstances surrounding his death was provided.

1917. Concerning **Rustam Norboboyev** (ibid., para. 1252), the Government confirmed that his dead body was found on 18 March 2000 hanging in a noose made out of a shirt and tied to an upper bunk bed. The Government further reported that following a preliminary investigation conducted by the office of the Yakkabag district procurator, it was decided not to institute criminal proceedings on the basis that no offence had been committed.

1918. Concerning **Jumaev Sherali (Dzhumaec Sherali)** (ibid., para 1253), the Government reported that he was released on 20 May 1997 and that his punishment was reduced to punitive deduction of earnings. On 1 November 1999, he was found lying beside an electricity post in the “Khuzhakhuroson” *makhalla* (subdistrict authoritz) in Shakhrisabz district in a state of inebriation with injuries on his body. He died on 14 November 1999 in the central hospital. On the same day, the Shakhrisabz district procurator’s office instituted criminal proceedings in relation to this incident. On 28 April 2000 Kitab district court sentenced a man to three years of deprivation of liberty for “deliberate infliction of moderate bodily harm”.

1919. Concerning **Adkhom Mavlianov** (E/CN.4/2000/9, para. 1122), the Government informed that he was sentenced to six years of deprivation of liberty on 21 April 1998 by the Turakurgan district court and that the sentence was upheld by the Namangan oblast court on 17 July 1998. The Government also reported that he was being held in institution No. UYa 64/29 and was basically healthy. The Government stated that no torture or other unlawful methods had been applied against him.

1920. Concerning **Odil Mamatov (Mamatov Odilzhon Omonboevich)** (ibid., para. 1123), the Government reported that he was released on 10 October 2000 after completing his sentence. No information was provided regarding the allegations of beatings and other forms of ill-treatment.

1921. Concerning **Mikhail Ardzinov** (ibid., para. 1124), the Government reported that the case against him was dropped on 9 February 2002 on the grounds that he had ceased to present a danger to society. On 4 March 2002, the Ministry of Justice registered the statutes of the independent human rights organization headed by Mikhail Ardzinov. No information was provided regarding the allegations of torture and other forms of ill-treatment.

Observations

1922. The Special Rapporteur reiterates his concern, as expressed in his mission report (see E/CN.4/2003/68/Add.2, paras. 27 and 36), at information received that

confessions extracted under torture, or threats of torture, continue to serve as a basis for convictions. Moreover, he regrets that death sentences have been carried out in cases where interim measures had been issued by the Human Rights Committee and urgent appeals dispatched by the Special Rapporteur.

Venezuela

1923. Por carta con fecha 8 de octubre de 2003, el Relator Especial recordó al Gobierno varios casos transmitidos en 1997, 1998, 2000, 2001 y 2002 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

1924. El 2 de julio de 2003, el Relator Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, sobre la situación de **César Emilio Machado**, quien habría sido sometido a una paliza a manos de la Policía Municipal de Girardot, Estado de Aragua, el 21 de diciembre de 2001. Se alega que desde esta agresión, habría seguido sufriendo amenazas e intimidaciones por parte de agentes de la Policía Municipal de Girardot. El 28 de junio de 2003, un testigo clave, **Rush Alexander Valera**, habría sido víctima de disparos y habría muerto a manos de hombres no identificados cerca de su casa en Maracay, en el Estado de Aragua. Se expresaron temores según los cuales esta muerte podría estar relacionada con su situación como testigo clave en el caso. No se habrían adoptado medidas para proteger a César Emilio Machado y a otros testigos.

1925. Por carta de fecha 15 de septiembre de 2003, el Gobierno informó que el 13 de febrero de 2002 mediante oficio dirigido a la Comisaría Base Aragua del Cuerpo de Seguridad y Orden Público del Estado de Aragua, el Fiscal Primero del Ministerio Público del Circuito Judicial del Estado de Aragua solicitó que se prestara el servicio de patrullaje por la urbanización donde reside César Emilio Machado. Tal actuación se realizó sin perjuicio de la protección que el Juez de Control pueda acordar en su favor.

1926. El 22 de octubre de 2003, el Relator Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, sobre la situación del menor **I. P. G.** y su familia. Su hermano C. M. P. Gutiérrez habría sido asesinado en circunstancias desconocidas el 12 de abril de 2003, su cadáver habría presentado heridas por arma de fuego en el tórax, brazo derecho y región abdominal, así como contusiones y hematomas en diferentes partes del cuerpo. De acuerdo con los testimonios de algunos vecinos, había sido herido por una patrulla de policía. El 13 de octubre del 2003, ocho agentes de la Policía Municipal de Sucre habrían irrumpido, sin orden de allanamiento, en la casa de la familia, los funcionarios habrían arrestado a I. P. G. El menor habría sido repetidamente y fuertemente golpeado y amenazado de muerte en relación con las acusaciones que hizo sobre la muerte de su hermano. También le habrían colocado una bolsa plástica negra en la cara. Más tarde habría sido puesto en libertad.

Seguimiento de comunicaciones transmitidas previamente

1927. Por carta de fecha 8 de abril de 2003, el Gobierno respondió a comunicaciones transmitidas en el pasado.

1928. En relación con **José Luis Nieves** (E/CN.4/2002/76/Add.1, párr. 1757, y E/CN.4/2003/68/Add.1, párr. 1949), el Gobierno indicó que las investigaciones realizadas permitieron la individualización de dos funcionarios adscritos a la Comandancia general del Estado de Carabobo, contra quienes se solicitó la medida de privación preventiva de libertad y medida cautelar sustitutiva respectivamente. Asimismo el Gobierno informó que los fiscales investigadores fueron recusados por presunta enemistad manifiesta.

1929. En relación con **Jhonny José Paz** (E/CN.4/2003/68/Add.1, párr. 1951), el Gobierno informó que la investigación adelantada por el cuerpo de investigaciones científicas de Las Acacias a cargo del ministerio público no logró la imputación de los hechos a ningún responsable.

1930. En relación con **Maury Oviedo** (ibíd., párr. 1948), el Gobierno informó que la investigación estaba a cargo del ministerio público, el cual adelantó las indagaciones respectivas en desarrollo de las cuales habría oficiado a la Oficina Nacional de Identificación y Extranjería (ONIDEX) e Interpol con el objeto de obtener información sobre el movimiento migratorio de Maury Oviedo así como con el fin de lograr el total esclarecimiento de los hechos.

1931. El 13 de junio de 2003, el Gobierno respondió a una comunicación enviada el 30 de octubre de 1996 (E/CN.4/1997/7, párr. 207) y proporcionó información sobre los dos casos siguientes.

1932. En relación con **Arny Arturo Plasencia Flores** (ibíd.), el Gobierno proporcionó información sobre el expediente de la Dirección de Servicios de Inteligencia y Prevención (DISIP) sobre su caso e indicó que esta institución garantizó en todo momento el fiel cumplimiento de los principios constitucionales y el respeto a los derechos humanos.

1933. En relación con **José Gregorio Aguaje** (ibíd.), el Gobierno informó que en los archivos de la DISIP no consta expediente alguno relacionado con su detención.

1934. Por la misma carta, el Gobierno proporcionó información sobre el expediente de la DISIP sobre el caso de **Gloria Magiba López Pérez** (E/CN.4/1999/61, párr. 783).

Viet Nam

1935. By letter dated 5 August 2003, sent jointly with the Special Rapporteur on human rights defenders, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by saying that the allegations were false. The Government also stated that these cases were being identified and that it would provide further information in the future.

1936. **Y-Phan Buon Krong, Y-Be Nie, Y-Pen Buon Ya, Y-Glen Buon Krong and Y-Gun Hwing**, all Montagnard Degars from the hamlet of Buon Cuor Knia, district of Buon Don, Dak Lac province, were reportedly arrested on 24 February 2003 on suspicion of practising Christianity, supporting the Montagnard Foundation (MFI), an indigenous rights organization, and gathering names of Degars willing to

join the Transnational Radical Party, a non-governmental organization with consultative status with the United Nations. All of them were reportedly handcuffed and severely beaten with clubs and rocks in front of their relatives until they fell unconscious. Security forces allegedly attempted to cripple Y-Pahn Buon Krong and Y-Glen Buon Krong by repeatedly smashing their knees with a rock. The five men were allegedly taken to the prison at Buon Don District.

1937. **Y-Nen Buon Ya** and **Y-Ne Buon Ya**, both from the hamlet of Buon Buor, district of Cu Jut, Dak Lac province, were reportedly arrested by security officials on 28 January 2003 on suspicion of supporting MFI and gathering names of Degaris willing to join the Transnational Radical Party. They were allegedly beaten and subjected to electric shocks while in prison in the district of Cu Jut.

1938. By letter dated 5 August 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative on human rights defenders, the Special Rapporteur advised the Government that he had received information according to which **Y-Su Nie**, a Degar Montagnard Christian from Buon Mbhao village, Mdrak district, Dak Lac, died on 31 January 2003, a few hours after being released from custody. He had reportedly been held at Buonmathuot prison since 15 November 2002. His detention was reportedly related to his religion and to his activities as a land rights advocate. While in prison he was reportedly beaten and subjected to electric shocks. On 30 January 2003, he was reportedly handcuffed and injected with an unknown chemical substance which was allegedly lethal. Prison authorities reportedly subsequently released him but warned him that he would die soon. He reportedly died the next day. He was buried on 2 February 2003.

1939. By letter dated 20 November 2003, the Government responded that these allegations were false.

Urgent appeals

1940. On 20 February 2003, the Special Rapporteur sent an urgent appeal concerning the 86-year-old Patriarch **Thich Huyen Quang** of the banned Unified Buddhist Church of Vietnam (UBCV), who had allegedly been detained without trial since 1982, and who was reportedly suffering from a painful growth near his eye which, according to the doctors of the Quang Ngai hospital, could be cancerous. Thich Huyen Quang was reportedly also suffering from high blood pressure, chronic arthritis and stomach ulcers, and his health had allegedly seriously deteriorated as a result of poor conditions and lack of medical care during 21 years' detention in a damp hut adjacent to the Quang Phuoc Pagoda, Cho Chua hamlet in the remote central province of Quang Ngai. On 12 February 2003, despite the recommendations made by the doctors that the Patriarch should be transferred to Ho Chi Minh City hospital, the Security Police reportedly rejected their demand and banned Thich Huyen Quang from leaving the province. By the same urgent appeal, the Special Rapporteur raised information received concerning the situation of **Thich Quang Do**, another religious leader who had reportedly repeatedly called on the Government to release Thich Huyen Quang. Thich Quang Do was allegedly arrested on 1 June 2001 by the Security Police in Saigon's Phu Nhuan district and held in incommunicado detention since then. He was reportedly sentenced to two years of administration detention.

1941. By letter dated 12 March 2003, the Government responded that these allegations were not true and reported that Thich Huyen Quang (also named Le Dinh Nhan) was not subjected to administrative probation and that he was enjoying medical care in a Vietnam's leading gerontology hospital. Concerning Thich Quang Do (also named Dang Phuc Tue), the Government reported that he was sentenced in 1995 to five years of imprisonment and five years of administrative probation. He was released upon an amnesty decision in 1998. However, in accordance with the sentence, he remained subject to administrative probation. Therefore, information alleging that he was arrested again is false. On 1 June 2001, the administrative authority summoned to the district the People's Committee of Phu Nhuman District specifying the place of administrative probation.

1942. On 19 August 2003, the Special Rapporteur sent an urgent appeal concerning **Thich Ti Luc**, a member of the Unified Buddhist Church of Viet Nam (UBCV), whose trial was initially scheduled to take place on 1 August 2003 at Ho Chi Minh City People's Court. However, the trial was allegedly postponed and as far as the Special Rapporteur was informed, no new date had been set yet. He was reportedly denied access to his relatives, lawyers and doctors of his own choice and to be detained at an unknown location. According to the information received, in the past Thich Ti Luc fled from Viet Nam to Cambodia, where he was granted refugee status by the United Nations High Commissioner for Refugees (UNHCR) in June 2002. His whereabouts were allegedly unknown since 25 July 2002. In July 2003, his family was eventually allegedly notified by the Vietnamese authorities about the above-mentioned trial.

1943. By letter dated 22 November 2003, the Government responded that Thich Tri Luc (also named Pham Van Tuong) returned to a secular life in March 1999. He was arrested at the Vietnam-Cambodia border when he was trying to illegally cross it in an attempt to contact foreign organizations for coordinated activities against the State. A trial on his case was scheduled on 1 August 2003 but it was decided to postpone it for humanitarian reasons. The Government also stated that his right to physical and mental integrity was ensured.

1944. On 23 September 2003, 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 right to health concerning **Le Chi Quang**, who was reportedly arrested on 21 February 2002 at an Internet café in Hanoi and accused of "offences against the State and the Socialist Republic of Viet Nam", after he allegedly circulated via the Internet information condemning the Government's border agreement with China. He was reportedly sentenced on 8 November 2002 to four years' imprisonment followed by a further three years of house arrest. He was reportedly being held in Ba Sao prison camp, Nam Ha Province. He was allegedly suffering from chronic kidney disease and his health condition had allegedly deteriorated since his detention. According to the information received, he was not receiving the specialist medical attention that he needed and he was not receiving adequate nutrition. His family reportedly brought him medicine but was allegedly allowed only to visit him once a month. An independent doctor who was authorized to examine him expressed serious concern for his condition.

1945. By letter dated 24 November 2003, the Government responded that all activities related to his arrest, investigation, prosecution and trial had been carried out in full compliance with the law. His relatives were fully informed and in a timely manner of his arrest, and his trial was publicly conducted. He was ensured of his right to legal defence and self-defence. The Government reported that he eventually chose not to make any appeal. He was at that time serving his sentence and receiving treatments equal to those of other inmates of similar offence. In case he was sick, he would receive adequate medical treatment without any discrimination. Finally, the Government stated that allegations according to which he was kept in an unsanitary and space-limited condition were groundless.

Yemen

Urgent appeal

1946. On 20 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on violence against women concerning **Layla Radman 'A'esh** (f) and **Naji Hizam 'Abdullah** (f), who had both been reportedly convicted of adultery by the Court of First Instance in Aden. Layla Radman 'A'esh had reportedly been sentenced to death by stoning and Naji Hizam 'Abdullah to 100 lashes. Although Layla Radman 'A'esh and Naji Hizam 'Abdullah had appealed against the ruling, the Appeal Court in Aden reportedly upheld their sentences on 22 September 2001. Layla Radman 'A'esh's case was reportedly pending before the Supreme Court for a final appeal.

Follow-up to previously transmitted communications

1947. By letter dated 20 November 2002, the Government provided information on the following cases, which were transmitted on 12 June 1996 by the Special Rapporteur. The Government reported that in many of the cases cited in the Special Rapporteur's communications, the concerned individuals failed to file a complaint with the Department of Public Prosecutions. Since the authorities had received no information about these cases, they could not be considered to have neglected to take action thereon.

1948. Concerning **Muhammad 'Abdullah al-Hayd, Ahmad Sa'id Salmayn Bakhabira** and **Dr. Abu Bakr Al-Saqaf**, the Government reported that there was no evidence to show that they had been subjected to any form of torture or ill-treatment by any government body.

Observations

1949. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee against Torture about the nature of some criminal sanctions, in particular flogging and amputation of limbs, which may be in breach of the Convention (CAT/C/CR/31/4, para. 6(b)).

Zambia

1950. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a case transmitted in 2001 for which no response had been received.

Observations

1951. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee on the Rights of the Child (CRC/C/15/Add.206, para. 30) about the practice and acceptability of corporal punishment in schools, families, care and juvenile detention institutions despite the practice being forbidden by the Constitutional Court.

Zimbabwe

1952. By letter sent jointly on 16 September 2003 with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by letter dated 5 November 2003.

1953. **Tonderai Machiridza**, a member of the opposition Movement for Democratic Change (MDC) reportedly died five days after he was arrested on 13 April 2003 by the police in Chitungwiza, a Harare suburb, along with three other MDC supporters, namely **David Chipunza**, **John Mazhambe** and **Lisbon Mtandwa**. The four men were reportedly accused of harassing a police officer during the two-day stay-away organized by MDC on 18 and 19 March 2003. They were allegedly taken to Saint Mary's Police Station, where they were reportedly beaten by police with boots, truncheons and handcuffs. Tonderai Machiridza allegedly sustained severe head injuries: his head was reportedly swollen, and he had severe headaches and a bleeding nose. They were reportedly taken by the police to Chitungwiza General Hospital for treatment. Tonderai Machiridza and John Mazhambe were allegedly kept in hospital where they were held under police surveillance, chained to their beds. After a court application, the High Court reportedly ruled that Tonderai Machiridza should be released on bail so that he could receive better medical treatment. He was reportedly moved to a clinic in Harare where he died from his injuries on 18 April 2003.

1954. The Government informed that Tonderai Machiridza and his three accomplices attacked two police officers who were about to arrest them on suspicion of being involved in the burning of a bus that was carrying children. Eight members of the Neighbourhood Watch Committee arrived to assist the attacked officers. During the scuffle, Tonderai Machiridza was injured and he was therefore taken to Chitungwiza General Hospital and later to Avenues Clinic, where he died on 18 April 2003. The Government further informed that a post-mortem examination revealed that his death was a result of tuberculosis. The Government also reported that, after their arrests David Chipunza, John Mazhambe and Lisbon Mtandwa filed a complaint against the police. This case was still under investigation.

1955. **David Stevens**, an opposition supporter and commercial farmer in Macheke, Mashonaland East Province, was reportedly abducted on 15 April 2000 from the police station in the town of Murehwa by a "militia", who allegedly severely beat him before fatally shooting him at point-blank range.

1956. The Government reported that six people were arrested in connection with this case and that three of them stood for a trial. The accused persons were released on bail.

1957. **John Rutherford**, a commercial farmer, his wife and one of their farm workers were reportedly assaulted by members of Zanu-PF on 15 March 2002 in the presence of a constable. They were allegedly accused of ordering the destruction of farm occupiers' housing on the farm and giving a cell phone to a worker to tell MDC about illegal settlers. As a result of the alleged attack, the farm worker reportedly died and John Rutherford was admitted to Marondera Hospital. His wife was allegedly forced to witness the aggression and threatened with death at gunpoint. Two suspects were allegedly arrested and seven more were being sought by the police in connection with this case.

1958. The Government reported that John Rutherford did not make any report on the 15 March 2003 incident. However, two people were arrested in connection with the murder of the farm worker.

1959. **Tafireyinyika Gwaze**, an MDC polling agent, was reportedly abducted on 12 March 2002 and taken to a camp by Zanu-PF and ZNLWVA militia, where he was allegedly beaten severely overnight. He was reportedly released on the following day but died as a result of multiple injuries.

1960. The Government reported that three persons were arrested in connection with this murder and that they were released on bail pending trial at the High Court in Harare.

1961. By letter sent on 16 September 2003, sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information according to which **Shepherd Ngundu**, a teacher from the rural area of Mount Darwin, was beaten to death on 5 February 2002 by suspected ZANU-PF supporters, one month before the presidential elections, allegedly for possessing a copy of the *Daily News*.

1962. By letter dated 5 November 2003, the Government responded that a report was made to Dotito police who attended the scene and that four accused persons had appeared in court facing charges of murder. The case was pending.

1963. By letter dated 17 September 2003, sent jointly with the Special Representative on the situation of human rights defenders, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by letter dated 5 November 2003.

1964. **Tawanda Hondora**, the chair of Zimbabwe Lawyers for Human Rights (ZLHR), was reportedly assaulted with stones, axes, "knobkerries" (wooden sticks with knobbed heads) and other weapons by a large group of ZANU-PF supporters at Sadza Growth Point on 7 April 2001. Tawanda Hondora had reportedly been investigating allegations of intimidation and assault against witnesses in a court hearing challenging the results of the parliamentary election in Chikomba District, Mashonaland East province. After the alleged assault, Tawanda Hondora was

reportedly taken to Sadza Police Station, where police officers allegedly beat him further, searched him and interrogated him about his political affiliation. Tawanda Hondora reportedly filed a complaint at Harare Central Police Station about his assault by police officers and sent a written notice to Police Commissioner Chihuri, asking to know what disciplinary action had been taken against the officers. In June 2001, he reportedly filed a civil suit against the Zimbabwe Republic Police, which asked for compensation for damages due to assault and unlawful detention. No further action to discipline those officers allegedly involved in the assault had reportedly been taken.

1965. The Government reported that it was difficult to respond to this case as the communication of the Special Rapporteur and Special Representative did not specify the nature of the complaint and where the alleged facts occurred.

1966. **Gabriel Shumba**, a lawyer with the non-governmental organization Zimbabwe Human Rights NGO Forum, who had given advice and assistance to torture victims, was reportedly arrested on 15 January 2003, along with four other people, including an opposition Member of Parliament. When he appeared in court on 17 January 2003, medical evidence was presented reportedly supporting his claim that he had been subjected to electric shocks from electrodes placed on his tongue, feet and genitals.

1967. The Government responded that, at the time of his arrest, Gabriel Shumba and others were celebrating the torching of a bus by MDC supporters. He was charged with inciting violence and seeking to overthrow the Government through unconstitutional means. The case was pending.

1968. By letter dated 17 September 2003, sent jointly with the Special Rapporteur on the promotion and protection of freedom of opinion and expression, the Special Rapporteur advised the Government that he had received information on the following cases, to which the Government responded by letter dated 5 November 2003.

1969. **Philimon Bulawayo**, a photographer with the independent *Daily News* newspaper, was reportedly approached and beaten by soldiers on 19 February 2003, while preparing to take pictures of a food queue at a Harare supermarket. He was reportedly handcuffed and taken to the Harare central police station where he was allegedly beaten again by police officers. He was reportedly released the same day without charge and his camera was returned to him. On 18 March 2003, he was reportedly arrested and assaulted again by police for attempting to cover the mass national stay-away organized by MDC on 18 and 19 March 2003. He was reportedly released again without charge.

1970. The Government reported that he was arrested after having been identified among some perpetrators of violence who were stoning passing motor vehicles. His case was being investigated.

1971. **Fifteen women participating in an allegedly peaceful march to celebrate International Women's Day** were reportedly detained and several others beaten by Bulawayo police on 8 March 2003. Among those detained there were reportedly three MDC Members of Parliament and the wife of the MDC Vice-President. The

15 women were reportedly held in police custody for four hours, apparently in connection with holding a march without police clearance, and were released without charge.

1972. The Government reported that the demonstration turned political and that the women were arrested when they started marching towards Bulawayo High Court. They were charged with “conduct likely to provoke the breach of peace” and given fines.

1973. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002, 2001, 1999 and 1998 for which no response had been received.

Urgent appeals

1974. On 23 January 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative on the situation of human rights defenders concerning information received indicating that allegations had been made in State media against the **Amani Trust**, suggesting that the organization had participated in violent attacks in Kuwadzana. Concern was expressed over information received suggesting that the Amani Trust offices could be the target of a fire-bombing or other form of attack in the near future. The Amani Trust is a Zimbabwean non-governmental organization providing services for the rehabilitation of victims of human rights violations, particularly torture and institutionalized violence, and it conducts human rights training and education programmes, particularly within health professions. It is part of the International Rehabilitation Council for Torture Victims.

1975. By letter dated 30 January 2003, the Government responded that Amani Trust was not registered in Zimbabwe as a non-governmental organization, but as a trust, and that it was not entitled to any privileged treatment. The Government also stated that the media were therefore free to make any allegations against Amani Trust or any other trust and that Amani Trust was in turn allegedly free to counter those allegations in any manner it deemed fit. The Government also stated that the police could not act on the basis of rumours.

1976. On 1 April 2003, the Special Rapporteur sent an urgent appeal concerning **Austin Mupandawana**, a Member of Parliament for MDC, and **Calisto Tsvangirai**, **Francis Musiniwa** and **Tongai Ndemberembe**, three MDC activists, who were reportedly arrested along with a number of other activists on 19 March 2003 and charged under the Public Order and Security Act (POSA) with public violence and sabotage during the national two-day mass stay-aways of 18 and 19 March 2003. They were reportedly denied bail when they appeared in court on 25 March 2003 and they were believed to have to remain in detention until their next hearing, on 9 April 2003. Upon their arrest they were reportedly taken to Kadoma police station, where they were allegedly beaten with batons and kicked all over their bodies. Francis Musiniwa's head was allegedly held under water until he was close to suffocating and his genitals were allegedly pulled. Tongai Ndemberembe was allegedly set upon and bitten by a police dog. While some of the detainees were released on 24 March 2003,

Austin Mupandawana and other activists were reportedly transferred to Kadoma Prison on 26 March 2003. They were reportedly denied medical treatment.

1977. By letters dated 28 April 2003 and 5 May 2003, the Government responded that the four above-named persons were released on bail on 4 April 2003. The Government also indicated that Austin Mupandawana and Tongai Ndemberembe received medical treatment while in custody and that Callisto Tsvangirayi and Francis Musiniwa did not request any medical care.

Information transmitted to the Palestinian Authority

1978. By letter dated 8 October 2003, the Special Rapporteur reminded the Government of a number of cases transmitted in 2002, 2001, 2000, 1999 and 1998 for which no response had been received.

Information transmitted to the Special Representative of the Secretary-General in Kosovo

1979. By letter dated 7 August 2003, the Special Rapporteur transmitted again to the Special Representative of the Secretary-General in Kosovo two cases initially sent in 2002 (E/CN.4/2003/68/Add.1, paras. 2014-2016), for which no response had been received.

1980. By letter dated 18 August 2003, the Special Representative of the Secretary-General in Kosovo responded that, under the terms of United Nations Security Council resolution 1244 (1999), the United Nations Interim Administration Mission in Kosovo (UNMIK) and the Kosovo Force operated under separate mandates. He further stated that UNMIK had no responsibility over the military investigation into the cases transmitted by the Special Rapporteur, and, therefore, no authority to gain access to the specific information requested.

1981. By letter dated 13 June 2003, the Special Rapporteur advised the Special Representative of the Secretary-General in Kosovo that he had received information concerning **Detective Inspector Henry Sostane Dowra**, a member of the United Nations Civilian Police working under the auspices of UNMIK in Prizren. It was believed that he had committed acts of torture, including the use of electric devices and severe beatings, while serving with the Central Investigation Department, Harare Central Police Station, Zimbabwe. Without in any way making any determination on the facts and circumstances of this case, the Special Rapporteur appealed to the Special Representative of the Secretary-General in Kosovo to take all necessary measures to ensure that a full and thorough investigation into these allegations would be carried out by the relevant authorities in Kosovo with a view to, if the evidence warrants it, bringing Henry Sostane Dowra to justice. In the absence of a request for extradition from a third country, and in accordance with the principle of international criminal law *aut dedere aut judicare*, the Special Rapporteur called upon the Special Representative of the Secretary-General in Kosovo to take the necessary measures to prevent impunity for the crime of torture.

Information transmitted to the Secretary-General of the United Nations

1982. On 24 July 2003, the Special Rapporteur drew to the attention of the Secretary-General of the United Nations information received concerning **Detective Inspector Henry Sostane Dowa**. A communication on this case had already been sent to the Special Representative of the Secretary-General in Kosovo on 13 June 2003 (see para. 1976 above). The Special Rapporteur advised the Secretary-General that he had subsequently been informed by the source of information that had initially submitted this case to his attention that the UNMIK did not consider itself to be in the position to pursue criminal prosecution in that respect.

1983. By letter dated 5 August 2003, the Office of Legal Affairs of the United Nations responded that UNMIK had taken steps to ensure that Henry Sostane Dowa would not leave Kosovo during the following 60 days and that during this period UNMIK would undertake a preliminary enquiry into the allegations received. During this period, the authorities of any competent State could seek his extradition from Kosovo and the source of information could, if it wished, approach the authorities of any State party to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to seek such extradition. If a request for extradition was not received during the 60 day period, the competent judicial authorities in Kosovo would be asked to investigate the allegations against Henry Sostane Dowa and to decide, pursuant to the Convention against Torture, whether to prosecute him.

Information received from the North Atlantic Treaty Organization (NATO)

1984. By letter dated 28 August 2003, the NATO Assistant Secretary General for Defence Planning and Operations provided information on two cases allegedly involving members of the Kosovo Force, transmitted by the Special Rapporteur to the Commander, Kosovo Force, and to the Special Representative of the Secretary-General in Kosovo (E/CN.4/2003/68/Add.1, paras. 2014-2016). The NATO Assistant Secretary General explained that the existing legal framework for the international presence in Kosovo allows KFOR, within its mandate and, where appropriate, in coordination with competent civil authorities, to carry out detentions in order to maintain a safe and secure environment. Appropriate policies and procedures had been established for the exercise of KFOR's powers and, with respect to detention, these place proper emphasis upon the need for correct treatment. The NATO military authorities took action to remind the subordinate command chain of the need for strict compliance with the existing directives. The Secretary General of NATO also asked the NATO military authorities to advise whether there was a need to supplement or amplify the existing directives in order to ensure that, when detentions were necessary, they were carried out in full and strict compliance with established procedures. Appropriate supplemental guidance was subsequently provided.

1985. Allegations concerning **Ahmad Sa'id, Imtiaz Mir and Dr. Abdul Raqiz** were brought to the attention of the national authorities concerned, with the request that they should take whatever follow-up action was appropriate.
