



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/61/Add.1
15 March 2005

ENGLISH/FRENCH/SPANISH

COMMISSION ON HUMAN RIGHTS

Sixty-first session

Item 11(e) of the provisional agenda

**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF
RELIGIOUS INTOLERANCE**

**Report of the Special Rapporteur on freedom of religion or belief, Asma
Jahangir**

Addendum

Summary of 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

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 – 2	3
SUMMARY OF CASES TRANSMITTED AND REPLIES RECEIVED		3- 94
Armenia	3 - 9	3 - 4
Azerbaijan	10 - 19	4 - 6
Bangladesh	20 - 29	6 - 9
Belarus	30 - 52	9 - 14
Bulgaria	53 - 54	14 - 15
China	55 - 73	15 - 20
Democratic People's Republic of Korea	74 - 79	20 - 21
Egypt	80 – 90	21 - 24
Eritrea	91 – 103	24 - 27
Fiji	104 – 109	27 - 28
France	110 – 122	28 - 31
Georgia	123 – 126	31 - 32
Greece	127 – 128	32 - 33
India	129 – 131	33 - 34
Indonesia	132 – 134	34 - 35
Iran (Islamic Republic of)	135 – 143	35 - 37
Iraq	144 – 147	37 - 38
Israel	148	38
Kazakhstan	149 – 152	38 - 39
Kyrgyzstan	153– 159	39 - 40
Lao People's Democratic Republic	160 - 166	41 - 43
Mexico	167– 168	43 - 44
Mongolia	169 – 170	44
Myanmar	171 – 173	44 - 45
Nigeria	174– 176	45 - 46
Pakistan	177 – 194	46 - 50
Republic of Moldova	195– 196	50
Russian Federation	197 - 205	51 - 53
Saudi Arabia	206 – 209	53 - 54
Serbia and Montenegro	210 – 213	54 - 55
Slovenia	214 – 219	56 - 57
Sri Lanka	229 – 225	57 - 58
Sudan	226	58 - 59
Thailand	227 – 240	59 - 62
The Former Yugoslav Republic of Macedonia	241 – 257	63 - 66
Turkey	258 – 262	66 - 67
Turkmenistan	263 - 281	67 - 72
United Kingdom	282 – 288	72 - 73
United Republic of Tanzania	289 – 291	73 - 74
United States of America	292 – 326	74 - 82
Uzbekistan	327 – 347	82 - 88
Viet Nam	348 – 372	88 - 94

Introduction

1. This addendum to the report of the Special Rapporteur on freedom of religion or belief gives an account of communications transmitted by the Special Rapporteur between 1 January and 11 November 2004. It also contains the replies received from Governments to his communications, as well as observations of the Special Rapporteur where considered appropriate.
2. Owing to restrictions on the length of documents, the Special Rapporteur has been obliged to reduce details of communications sent and received. As a result, replies from Governments could not be published in their entirety.

Summary of cases transmitted and replies received

Armenia

Communications and replies received

3. On 27 October 2004, the Special Rapporteur transmitted a communication to the Government of Armenia in relation to the situation of five Jehovah's Witnesses who were reportedly sentenced to prison terms in October 2004 for refusing military service on grounds of conscience. According to the information received, between 7 and 14 October 2004, **Karen Hakopyan, Arsen Sarkisyan, Mher Mirpakhatyan** and **Artur Manukyan** were sentenced by a court in Armavit whereas **Hovhannes Bayatyan** was sentenced by the Yerevan Erebuni-Nubarashen Court. They all received the maximum sentence of two years of prison each under article 327, Part I, of the Criminal Code. They were reportedly held in Nubarashen prison. On 1 October 2004, **Asatur Badalyan**, another Jehovah's Witness, was reportedly sentenced on the same grounds to 1 ½ years' imprisonment by a court in Kotaik. Concerns have been expressed that the six prisoners, who were called up in May 2004, officially applied to do alternative civil service but were told that such an option did not exist.
4. By letter dated 3 December 2004, the Government of Armenia indicated that the law on alternative service had only entered into force on 1 July 2004 but that the persons referred to in the communication could now apply for alternative service and their prison sentences would then be cancelled.
5. The Government further stated that while looking into the matter a special mission comprised of the staff members of the Armenian Human Rights Defender's Office and the Public Observation Group of the Ministry of Justice investigated the conditions of detention of Arsen Sargsyan, Mher Mirpakhatyan, Karen Hakobyan, Artur Manukyan, Hovhannes Bayatyan, using a questionnaire survey.
6. The visiting group also met with Asatur Badalyan and other imprisoned Jehovah's Witnesses at the Kosh detention centre on 19 November 2004. According to the questionnaires filled out by the prisoners, all the above-mentioned persons believed that they were prisoners of conscience and that they were unfairly sentenced. However, nothing in their verdicts referred to their being sentenced because of their religious beliefs.

7. The Government indicated that the men claimed that they had applied to the Prosecutor General and to local enlistment offices to do alternative service. The request had been denied since the relevant legal provisions did not exist at the time. The visiting group also found that the men considered that the alternative service established by the new legal provisions to be of too long a duration and therefore still did not want to do it, although they did not consider the alternative service to be in contradiction with their religious beliefs.

8. Finally, the Government informed the Special Rapporteur that the visiting group explained to the men the legal procedures that would help them to transform their detention into alternative service, in order to have a clear their records. As to the alternative service conditions, the Government also noted that each state has its own legislation in that regard.

Observations

9. The Special Rapporteur is grateful for the details provided in the reply of the Government and, referring to the concluding observations of the Committee on the Elimination of Racial Discrimination of 14 August 2002 (A/57/18, paras. 269-291), encourages the Government to take all the measures to ensure freedom of religion to all without discrimination.

Azerbaijan

10. On 12 March 2004, the Special Rapporteur advised the Government of Azerbaijan that she had received information according to which Azeri authorities had ordered Muslims in Baku to leave the "Juma" mosque. Nubaris Kuliev of the city administration had allegedly written to the mosque leaders on 15 January 2004 to tell them that the Muslim community had to leave the mosque within 15 days and hand it over to the "appropriate authorities". The authorities reportedly wanted to turn the mosque into a carpet museum, the use to which the 1,000-year-old mosque was put in Soviet times. The mosque's imam, **Ilgar Ibrahimoglu Allahverdiev**, has reportedly been repeatedly detained by local authorities.

11. By letter dated 1 April 2004, the Government of Azerbaijan responded that the building referred to in the communication of 12 March 2004 is under the protection of the Ministry of Culture as one of the historical monuments of Baku. This is the place where the Carpet Museum had been functioning until 1992. After 1992, the building was seized by **Ilgar Ibrahimoglu Allahverdiev** and **Azer Ramizoglu Samddov**, inhabitants of Baku. They established the society of "Islam Ittihad", an alleged religious community.

12. The Government stressed that any religious community willing to use a building as a mosque should conclude a contract with the Ministry of Culture and then assume the responsibility to preserve it in appropriate conditions. Moreover, only registered religious communities can use a mosque and the above-mentioned community is not registered. According to the information received from the State Committee for Work with Religious Organizations, representatives of the religious

community applied for registration on 29 January 2002 but the application was denied because the community refused to observe two legal provisions according to which it should register with the Caucasian Muslim Board and indicate a legal address. The community is therefore not entitled to use this building as a mosque, which does not imply that members of the community are prohibited from worshipping in any mosque, including "Juma" mosque.

13. Regarding the arrest of Ilgar Ibrahimoglu Allahverdiev, he was charged for his participation in the mass disturbances of 15 and 16 October 2003 in Baku organized by activists of some political parties that wanted to influence the results of the presidential elections. Ilgar Ibrahimoglu Allahverdiev was accused of breaching articles 233 (organization of and participation in mass disturbances) and 315.2 (resistance to representatives of the authorities) of the Criminal Code.

14. On 29 March 2004, the Special Rapporteur transmitted additional information on the "Juma" mosque according to which, in the wake of a court decision of 1 March 2004 to expel them from their place of worship, members of the mosque were warned by a court official that they would be evicted by force. The judgement allegedly stated that the community was being stripped of its place of worship because it had no agreement from the Old City authorities to use the building, that it did not undergo re-registration as a religious community with the State Committee for Work with Religious Organizations, and that it was not subject to the Caucasian Muslim Board. The community rejected these arguments, indicating that it had repeatedly tried to reach an agreement with the Old City authorities, who failed to respond to their applications; that its 1993 registration as a religious community with the Ministry of Justice had never been revoked and therefore remained valid; and that the requirement in the country's religion law that mosques should be subject to the Muslim Board violated Azerbaijan's international human rights commitments.

15. On 9 August 2004, the Government replied, in addition to information already provided in its previous letter, that since the activities of the religious community in question were considered unlawful, the Board of Muslims of the Caucasus had appointed a new imam to the mosque, which does not restrict the freedom of conscience of those who worship in this mosque. Moreover, the Baku Office of the Center of Protection of Religious Freedom and Freedom of Conscience (DEVAMM), headed by Ilgar Ibrahimoglu Allahverdiev, has a separate building in the Inner City where it has continued its activity. The mosque is currently under renovation and will restart its activity after the works are completed.

16. Ilgar Ibrahimoglu Allahverdiev, who claims to be the imam of the "Juma" mosque, graduated from the Islamic education faculty of Qazvin University in the Islamic Republic of Iran in 1998 and taught a post-graduate course in Tehran University from 1998 to 2002. After his return to Azerbaijan, the Government notes that he engaged in activities with the "Islam Ittihad community". In addition to statements made against the secular regime, he advocated Islamic revolution and the advantages of Iranian life during religious courses. The leadership of the community carried out activities to establish cooperation among radical Islamic organizations and communities in Azerbaijan. One activity of "Islam Ittihad" is the training of "Islamic Observers".

17. On 2 April 2004, a court convicted Ilgar Ibrahimoglu Allahverdiev on the charges of having, in agreement with others, organized mass disturbances on 15 and 16 October 2003 by committing acts of violence, pogroms, and destruction of property in order to change the results of presidential elections. Those events resulted in the closing of a number of schools and acts of violence caused huge damage to shops, hotels, cafés and medical centers; some citizens were beaten by the participants in the rally. In total, 150 policemen and 25 civilian persons suffered injuries of various severity and the material damage was estimated at approximately US\$ 680,000 for State property and US\$ 10,000 for private property. Following his conviction, the court gave Ilgar Ibrahimoglu Allahverdiev a suspended sentence of five years' imprisonment.

18. On 27 October 2004, the Special Rapporteur transmitted a communication regarding information according to which, on 16 September 2004, the Baku Court of Appeal confirmed a district court decision that rejected Jehovah's Witness **Mahir Bagirov**'s submission that the request that he present himself for military service was illegal and unconstitutional. Despite a constitutional right to perform alternative service and the State's commitment to the Council of Europe to introduce a law regulating such alternative service, for which the deadline had long expired, Mr. Bagirov, aged 28, had reportedly failed to secure this right in two court hearings. Reports indicated that he had lodged an appeal with the Supreme Court but fears had been expressed that he could have been sent to a military unit at any time. According to the information received, Mr. Bagirov was called up in 2000 and informed the recruitment office that he wished to perform alternative service because of his faith. Although his application received no response, he received a three-year deferment as he had started studies. He was called up again in May 2004 and ordered to report to a military unit. On 9 June 2004, he lodged his suit at the Baku Khatai district court, arguing that the obligation to perform military service was in violation of article 76, Part 2, of the Constitution, which provides that: "If the beliefs of citizens come into conflict with service in the army then in some cases the law can permit alternative service instead of regular army service."

Observations

19. The Special Rapporteur is grateful to the Government of Azerbaijan for its replies to the communications concerning the situation of the "Juma" mosque and is waiting to receive information about her communication of 27 October 2004. The Special Rapporteur still awaits a reply from the Government on her request to visit the country.

Bangladesh

20. On 12 March 2004, the Special Rapporteur sent a communication to the Government of Bangladesh in relation to information received according to which, on 8 January 2004, the Ministry of the Interior declared in a press release that it had decided to ban "the sale, publication, distribution and retention of all books and booklets on Islam published by the Ahmadiyya Muslim Jamaat, Bangladesh, which includes the Bengali or any other translation (with explanation) of the 'Quran Majid'". This decision was reportedly taken at a high-level meeting held on 7 January 2004 at

the Ministry of Religious Affairs chaired by the State Minister for Religious Affairs. The reason invoked was that these publications contain “objectionable materials ... which hurt or might hurt the sentiments of the majority Muslim population of Bangladesh”. Reports indicated that this decision was taken in the context of an intensifying campaign by certain groups, allegedly on the extreme religious right, demanding the enactment of a law declaring the Ahmadiyyas non-Muslims. The Ahmadiyya community in Bangladesh was reportedly subjected to repeated assaults on its mosques and on individual members of the community. It was reported that in one instance, a crowd led by the local mullah attacked the members of the Ahmadiyya Muslim Community after Friday prayers in the village of Raghunathpurbag, Jessore district. The mosque was reportedly ransacked and the imam of the mosque was injured and died from his injuries as he was rushed to hospital.

21. The Special Rapporteur also brought to the attention of the Government that, in a separate incident, a local mullah threatened to kill members of the Ahmadiyya Muslim Community in Bhanipur, Kushtia district, if they did not renounce their faith. On 21 November 2003, a crowd reportedly led by the local mullah attempted to occupy the Ahmadiyya mosque in East Nakhalpara in Tejgaon, resulting in several people being injured.

22. By letter dated 24 May 2004, the Government of Bangladesh responded that the Constitution of Bangladesh provides protection to the rights of every citizen irrespective of faith, gender, creed and ethnicity. The fundamental rights guaranteed in the Constitution are in consonance with the standards enunciated in the International Bill of Human Rights. Like all communities, the Ahmadiyyas are not only guaranteed constitutional rights but also have equal access to all opportunities, including access to service of the Republic. Members of the community have risen to high levels of public service appointments, both in the civil and the military services. They enjoy freedom of worship and to propagate their religion. The community has its own religious centres and places of worship. The Government is committed to upholding their rights and providing security to community leaders as well as their places of worship, as guaranteed by the Constitution. In the face of the recent events, the Government has provided police protection to members of the community. Necessary measures were also taken by the Government to safeguard their mosques. Police was deployed to thwart attempts from certain quarters to march towards an Ahmadiyya mosque demanding that the community be declared non-Muslim.

23. The Government also declared that there will be no change in the religious status of the Ahmadiyyas. Some Ahmadiyya publications were, however, banned in view of the presence of material that might offend the sentiments of the majority Muslims of Bangladesh.

24. On 27 August 2004, the Special Rapporteur sent an urgent appeal to the Government of Bangladesh expressing her concerns about various incidents that had taken place over the previous days and, in particular, about further threats made by religious groups to attack members of religious minorities, especially the Ahmadiyyas and the Hindus. According to the information received, on 21 August 2004, Islamist leaders had allegedly threatened to attack the Ahmadiyya Muslim Jamaat religious community's headquarters in Dhaka on 27 August unless the

Government declared the sect to be non-Muslim. This was reportedly the latest of a series of similar attempts by Islamist groups to prevent the Ahmadiyyas from openly practising their beliefs, and had led to incidents of the Islamist groups' trying to shut down community centres, putting up hate signs on their places of worship and confiscating their religious materials and prayer books.

25. Moreover, the editors and journalists at the largest Bangladesh daily, *Prothom Alo*, were reportedly threatened with attacks by an Islamist group for publishing investigative reports about the activities of a number of madrasas (religious schools) in rural areas. It was believed that editors and journalists of other newspapers had received similar threats.

26. On 10 November 2004, the Special Rapporteur sent a communication regarding Islamic groups that had allegedly attacked an Ahmadiyya place of worship in Brahmanbaria on 29 October 2004, as a result of which at least 11 Ahmadiyyas suffered serious injuries. Islamist groups then threatened to carry out the attacks more frequently and without prior notice. It was reported that they had named Ahmadiyya places of worship as the targets of their attacks every Friday during noon prayer time. Places of worship in Narayangonj and Nakhhalpara were allegedly of special concern. In Nakhhalpara, flyers had been distributed calling for the culmination of a year-long anti-Ahmadi campaign in a "celebration" that would create a "mass explosion" while in Narayangonj, announcements had been made that attacks against the Ahmadiyya community would take place in the run-up to Eid ul Fitr, which marks the end of the holy month of Ramadan.

27. By letter of 16 November 2004, the Government of Bangladesh responded to the communication of 10 November 2004 and reiterated the information provided in its letter of 24 May 2004 (see above). The Government also made clear that there would be no change in the religious status of the Ahmadiyyas.

Follow-up to previously transmitted communications

28. By letter of 19 August 2004, the Government of Bangladesh responded to a communication sent by the Special Rapporteur on 11 April 2003 and provided the following information:

(a) On 22 April 2002, Gyan Jyoti Barua, a Buddhist monk in Rawzan, Chittagong, was reportedly murdered in his bedroom by a group of 10-15 unknown assailants. The same day, a case was lodged in this connection under section 302/34380 of the Bangladesh Penal Code with Rawzan Police Station. A special team of investigators headed by an Assistant Superintendent of Police of the Criminal Investigation Department (CID) of the City Zone was assigned to the case, under the direct supervision of a Special Superintendent of Chittagong Police and an Additional Inspector General of CID. The Home Minister, the Foreign Minister and the Inspector General of Police visited the site after the incident and directed that every effort should be made to bring to justice all those believed to be involved. Subsequently, on 21 December 2002, one Elias Mohammad, alias Yar Mahmood, was arrested and made a confession implicating himself and six other persons namely, Azizul Haque, Nurul Islam, Putul Barua, Zahir, Gyas and Manik,

for the murder of Gyan Jyoti Barua. The case was, at the time of the reply, under investigation by the CID;

(b) On 29 April 2002, Madan Gopal Goswami, a Hindu priest, was allegedly stabbed to death by a group of unknown assailants at a Hindu temple under Manikchari Police Station in Khagrachari district. A police case was filed in this connection under section 302/380/447/448/324/34 of the Bangladesh Penal Code in Manikchari Police Station (case No. 05 dated 29 April 2002). An inspector of the Zonal CID was assigned to the case, under the supervision of a Special Superintendent of Chittagong Police and an Additional Inspector General of Police, CID. A total of 11 persons had been arrested at the time of the reply; one of the arrested persons had made a judicial confession;

(c) During a special law and order restoration drive (Operation Clean Heart), soldiers from the Doshvila army camp under Lazmichari Zone led by Subedar (Corporal) Tarikul Islam went to the Barobil Buddha Vihar and took into custody Reverend Kyolachai Bikkhu and one other monk. The monks were reportedly assaulted by the army personnel while in custody. They were, however, released after a few hours. A military inquiry was held following the incident, and the Zonal Commander of Shindokchari Zone was assigned to visit the area and take the necessary steps. The Zonal Commander visited the monastery and consulted with members of the monastery and other local tribal leaders. Following consultations, the matter was amicably resolved. As compensation, the Zonal Commander gave 5,000 taka to the monks on behalf of the Brigade Commander. No complaint was filed with the police on the incident;

(d) It was further stated that the first two cases were being pursued as a matter of high priority and that the Government was committed to bringing to justice all those responsible.

Observations

29. The Special Rapporteur is grateful for the details provided in the replies of the Government and, referring to the concluding observations of the Committee on the Rights of the Child adopted on 3 October 2003 (CRC/C/15/Add.221), encourages the Government to take all necessary measures to ensure the rights of religious minorities without discrimination. She is looking forward to undertake a follow-up visit in Bangladesh.

Belarus

Communications and replies received

30. On 15 March 2004, the Special Rapporteur sent a communication to the Government of Belarus in relation to information received according to which religious organizations across the country faced compulsory re-registration under the new law on religion passed in November 2002. According to the law, even if a religious organization is registered, it may not use a residential address as its legal

address or gather there. State officials, however, have allegedly been giving differing views on whether religious activity by groups with fewer members than the threshold of 20 required for registration is illegal.

31. In May and June 2003, Pentecostal evangelists **Aleksandr Balyk** and **Aleksandr Tolochko** were fined for allegedly conducting unregistered home worship in the region of Grodno. **Pastor Nikolai Rodkovich** of the Pentecostal Church in Kobrin, near Brest, was reportedly fined on 11 December 2003 after the police attended the unregistered church's service.

32. The religion law reportedly confines the activity of a religious organization to a defined area, often a single village, town or region of the country. Orthodox, Baptist, Pentecostal and Catholic leaders are among those to have expressed their concern that the law's provisions make it difficult to organize new churches.

33. It has also been reported that according to the religion law only republic-wide religious organizations registered in Minsk have the right to found monasteries and convents. The Greek Catholic Church reportedly has no such central body in Belarus, making it difficult to have its monastery of the Holy Martyrs Boris and Gleb in Polotsk recognized.

34. Lastly, the religion law allegedly criminalizes the "attraction of minors to religious organizations and also the teaching of religion to them against their will or without the agreement of their parents or guardians". It has been reported that local authorities are demanding that religious organizations supply the names and dates of birth of all their Sunday school children.

35. By letter dated 20 July 2004, the Government of Belarus transmitted to the Special Rapporteur information received from the Committee on Religious and Ethnic Affairs of the Council of Ministers of Belarus and according to which the purpose of re-registration is to bring the constituent documents, and particularly the charters, of religious organizations into accordance with the requirements of the new Act. Religious communities registered prior to the adoption of the new version of the Act are being re-registered by the State with the same minimum number of founders as was reflected in their charters before the entry into force of the Act. As of May 2004, out of the 2,936 religious organizations active in the country, more than 2,250 had successfully completed the re-registration procedure. This number of re-registrations includes 95 per cent of the Orthodox and Roman Catholic communities, about 70 per cent of Protestant communities and more than 80 per cent of Jewish communities.

36. According to article 14 of the Act, the charters of religious organizations must contain information about the location of the organizations. Moreover, article 8.4 of the Housing Code stipulates that the use of residential premises for another purpose is subject to an agreement with the local authorities and to compliance with town planning, public health and fire safety rules and regulations. A total of 2,035 out of 2,825 religious communities have their own buildings for worship and about 800 communities rent premises or use single-apartment blocks of houses for the purposes of worship.

37. Concerning the activities of religious organizations referred to by the Special Rapporteur, the Government responded that in April 2003, M. Balyk and A. Tolochko held unregistered meetings of Evangelist believers in the village of Zheludok in Shchuchino district, Grodno oblast, for which they incurred administrative penalties. However, the higher judicial bodies reversed these decisions.

38. On 23 November 2003, pastor N. Radkovich of the Pentecostal Church in Kobrin held an unregistered prayer meeting with a group of Evangelist believers in a house, thereby contravening article 193 of the Code of Administrative Offences. On 24 November 2003, the Kobrin district executive committee recommended that N. Radkovich prepare documents for the registration of the community. A letter with such request was addressed to him on 2 February 2004 by the district executive committee but no application for the registration of the community was received from N. Radkovich.

39. With regard to allegations concerning the restriction to the right to freedom of religion in human settlements where there are no registered religious communities, the Government explained that, under article 25 of the Act, religious rites, rituals and ceremonies may be held in case of need in the places of residence of citizens (including outside the area of activity of the religious communities) at their request and on condition of observing the rules of communal living and public order, if such events are not of a mass and systematic nature. The Constitution of Belarus guarantees citizens of the Republic the right independently to determine their attitude towards religion, to profess any religion individually or jointly with others, or to profess none at all, to express and spread beliefs connected with their attitude towards religion, and to participate in the performance of acts of worship and religious rituals and rites not prohibited by law. Clerics or other representatives of religious organizations are entitled, as private individuals, to visit believers living in human settlements not belonging to the area of activity of the religious organizations (communities).

40. The Government further noted that the State authorities have not received communications from leaders of the Belarusian Orthodox Church, Roman Catholic Church or Union of Christians of the Evangelical Faith in which they might have expressed concern about difficulties with the registration of new communities or the opening of churches. Under national legislation, religious associations are entitled to found monasteries and convents. They also have the right to independently determine the location of such institutions.

41. Thirteen Greek Catholic Church communities have been registered in the Republic of Belarus. Representatives of communities of this faith have not transmitted communications to the Committee concerning either the registration of a religious association or the return of religious buildings formerly belonging to them. As regards the Greek Catholic Boris and Gleb monastery in Polotsk referred to in the communication, the Committee has no details about the existence of such a monastery in Polotsk. A Boris and Gleb monastery belonging to the Russian Orthodox Church indeed functioned in Polotsk from the thirteenth to twentieth centuries. However, the monastery buildings were destroyed during the Second World War and were never restored. The foundations of the former churches are now buried under the ground,

and residential dwellings have been erected on the site where the monastic structures used to be located.

42. Finally, the Government stresses that article 39 of the Act has established liability for the induction of juveniles into religious organizations and the teaching of religion to juveniles against their will and without the consent of the parents or persons acting in loco parentis. Nevertheless, article 5 of the Act specifies that parents or persons acting in loco parentis are entitled by mutual consent to bring up their children in accordance with their own attitude towards religion. The State may not interfere in the upbringing of a child based on the particular religious views of the parents or persons acting in loco parentis, except in cases where inducement to perform religious acts directly threatens the child's life and health or violates his or her legal rights. This provision is consistent with article 18, paragraph 4, of the International Covenant on Civil and Political Rights, which recognizes the liberty of parents and legal guardians to ensure the religious and moral education of their children in conformity with their own convictions. With regard, in particular, to the question about the requirement of local authorities that religious organizations should provide lists with the names and dates of birth of children attending Sunday schools, it is pointed out that this has not been made compulsory and information has only been requested about the number of study groups and the approximate number of children attending such schools.

43. On 10 June 2004, the Special Rapporteur sent a communication to the Government of Belarus regarding **thousands of Jewish graves** that were reportedly desecrated since June 2003 in the western town of Grodno, where the site of an historic cemetery was being excavated to allow the expansion of a football stadium. Grodno's 300-year-old cemetery was reportedly used for burials until the 1950s. It was reportedly taken over by the Soviet authorities in 1958. The tombstones were destroyed and Grodno's current football stadium was built on about a fifth of the cemetery. The work allegedly aimed at expanding the football stadium and providing extra sports facilities. Among those buried in the cemetery are reportedly thousands of Jews killed in the Holocaust and important Jewish sages, including Reb Nochumka Horodna, the Yesod Veshoresch Hoavoda and the Gaon Rav Shimon Khkop.

44. By letter dated 27 December 2004, the Government of Belarus responded that the above allegation was completely false. The Jewish cemetery is not being destroyed and the stadium, built in 1964 on the site of a cemetery that had been closed in 1949, is being refurbished.

45. Until the end of the 1940s, a Jewish cemetery was situated approximately within the confines of Gorky, Kalinovsky and Kommunalnaya streets but no Holocaust victims were buried in that cemetery. Pursuant to Decision No. 276 of 26 April 1949 of the executive committee of the Grodno city Soviet of Workers' Deputies, the aforementioned Jewish cemetery was closed. The relatives of the deceased reburied their remains. On 16 July 1960, pursuant to Decision No. 478, the plot of land was given to the Grodno oblast Council of Trade Unions for the construction of a stadium.

46. In 2003, a number of meetings were held between officials of the Grodno city and oblast executive committees and the leaders of all Jewish cultural and religious communities active in Grodno. During the meetings, the fate of the human remains found during the reconstruction of the sports complex was discussed. In accordance with the wishes of the Jewish organizations, it was agreed that the soil would not be removed or transported outside the confines of the sports complex. An agreement of 18 August 2003 thus regulated the work being carried out on the site of the former Jewish cemetery in Grodno. A number of meetings were also held with representatives of the international Jewish organization Atra Kadisha and led to the signature of protocols on 22 October and 6 November 2003.

47. Municipal services reburied, in the territory of the active Jewish cemetery on Krasnopartizanskaya Street in Grodno, the human remains discovered in the mounds of earth formed during the reconstruction of Neman stadium. Also with the participation of representatives of Jewish organizations, the soil that had previously been transported from the construction site to Novaya Street in Grodno was placed in the territory of the active Jewish cemetery. All reconstruction work was carried out in accordance with the agreements and protocols signed with representatives of Jewish organizations.

48. On 27 October 2004, the Special Rapporteur sent a communication to the Government of Belarus in relation to information received according to which, on 16 July 2004, a district court in the Gomel region ordered the police to confiscate a 1988 Volkswagen car owned by **Vasili Bilas**, a Baptist resident of Mozyr. On 6 July 2004, the Lenin District Court in Brest instructed the accountant at the workplace of fellow Baptist **Leonid Martynovich** to deduct one fifth of his salary every month, while court bailiffs threatened to remove valuables from the home of **Nikolai Krynts**, another Baptist. According to the information received, on 17 April 2004, the three Baptists conveyed Easter greetings, sang hymns and distributed New Testaments to patients and visitors at the Mozyr hospital. Although they had previously informed the hospital administration of their visit, a staff member reportedly called the police. The group was then arrested and detained for questioning at a local police station and then brought before the Mozyr city court. The court reportedly sentenced them to pay fines of 20 times the minimum wage, or 380,000 Belarusian roubles. After they refused to comply with the court's decision, local courts reportedly ruled to confiscate personal property from Mr. Bilas and Mr. Krynts and to make a deduction from Mr. Martynovich's salary.

49. By letter of 16 December 2004, the Government responded that in accordance with article 25 of the Freedom of Conscience and Religious Organizations Act, religious rites, rituals and ceremonies in health-care institutions are conducted at the request of citizens in such institutions and on premises that the administration specially designates for that purpose. Persons in such institutions may possess, receive, obtain and use religious literature and articles, if this does not have any ill effects on their health and does not infringe the rights and legitimate interests of other persons. Moreover, in accordance with article 25 of the aforementioned Act, religious services, rites, rituals and ceremonies, as well as other mass activities whose main purpose is to satisfy religious needs, may be held only after the relevant decision has been taken by the director or deputy director of the local executive and administrative body in accordance with Belarusian law.

50. At the beginning of April 2004, Vasili A. Bilas and Nikolai M. Krinets requested the head of the territorial medical department of the Mozyr city executive committee, Mr. I.V. Baranov, to allow them to talk with patients in municipal hospital No. 1 and to convey their Easter greetings. Since the proposed contact between members of the religious community and patients would be of an individual nature, Mr. Baranov gave his consent to the Baptists' visit to the medical institution. However, on 17 April 2004, Mr. Bilas, Mr. Krinets and Mr. Martynovich, with the participation of a choir and four musicians, held a mass religious event in the courtyard of municipal hospital No. 1 in Mozyr; the event included the singing of hymns, a sermon and the distribution of religious literature. The event had not been approved by the Mozyr city executive committee. Patients and visitors complained about the noise to the deputy chief surgeon, Mr. V.M. Khokh, who asked the organizers of the event to stop their celebration. Upon their refusal, Mr. Khokh was forced to appeal to law enforcement bodies for assistance.

51. A report was made by the authorities and then referred to the Mozyr city court for further action. Mr. Martynovich, Mr. Krinets and Mr. Bilas each received a fine equivalent to 20 times the minimum wage, or 380,000 roubles, which is the minimum fine for such an offence. Since the violators did not pay the fine within the legally established time limit, the court took measures for the compulsory enforcement of the decisions by deducting the fine from Mr. Martynovich's salary and, since Mr. Krinets and Mr. Bilas were unemployed, confiscating their personal property. The prosecution of the aforementioned citizens for administrative offences and the procedure for recovering the fines are based on the provisions of Belarusian law on the conduct of public events and are not related to their right to profess their religion and beliefs either individually or together with others, including in public.

Observations

52. The Special Rapporteur is grateful for the details provided in the replies of the Government.

Bulgaria

Communications and replies received

53. On 27 October 2004, the Special Rapporteur transmitted a communication to the Government of Bulgaria in relation to information received according to which, on 21 July 2004, the police had forcibly expelled members of the alternative Orthodox synod from some 250 churches that they had been using since the Orthodox Church split in the early 1990s. Different raids were reportedly carried out in Sofia, Plovdiv, Smolian, Bansko, Chepelare, and other places across the country after a prosecutor's warrant was issued. Concerns have been expressed that the police forces may have been using excessive force during these operations. Indeed, reports indicated that more than 10 priests and more than 100 people were ill-treated in churches in Sofia alone. It was further reported that Fr. Khristo Piserov, Fr. Kamen Barakov and Bishop Gevrasy of St. Paraskeva Church in Sofia as well as the secretary of the church, Milena Shtereva, were detained without any grounds following these interventions.

54. By letter dated 24 November 2004, the Government responded that the problems and the contradictions between the Holy Synod of the Bulgarian Orthodox Church and the so-called "Alternative Synod" which has lead to the situation referred to are, to a large degree, economically oriented, and are not linked to the right to freedom of religion. The Government indicated that in the specific case of 21 July 2004 the issue was about property disputes (concerning rents, candle sales, income from charges for religious ceremonies, etc.), a question within the sole jurisdiction of the court. The discussions and the efforts to resolve the problems through dialogue and by mutual consent lasted for more than 18 months. In the beginning of July 2004, following the assessment that all means had been exhausted, the Bulgarian Orthodox Church officially approached the Prosecutor's Office—which is a constituent part of the independent judiciary in Bulgaria—and requested assistance for the implementation of the law. The measures undertaken by the police were consistent with the provisions of the Confessions Act, and were carried out under the instruction of the prosecution, in accordance with provisions of the Judicial Authority Act (art. 118, para. 2). The Government finally stressed that the existing disputes would be settled in the court in strict observance of the legislation in force, in respect of the principles of the rule of law and equality before the law.

China

Communications and replies received

55. On 14 June 2004, the Special Rapporteur sent a communication to the Government of China in connection with information received according to which, since 20 July 1999, when the Chinese Government banned Falun Gong, over 1,600 practitioners of Falun Gong had been tortured or beaten, several hundred had been given prison sentences of over 20 years, others had been interned in mental hospitals and a high number of practitioners had been sent to labour camps without trial. An unspecified number of practitioners were allegedly being held without trial. It was also reported that at least 907 practitioners had died while in detention.

56. Reports indicated that the campaign against the Falun Gong continued unabated across China. According to information received, practitioners of Falun Gong continued to be subject to ill-treatment and torture by State officials in their attempts to force the practitioners to renounce their belief in Falun Gong. It was also reported that individual practitioners who had been subjected to torture and other inhuman and degrading treatment whilst detained had not been provided appropriate and effective remedies. In particular, the system of administrative detention, re-education through labour (RTL), reportedly continued to be imposed on Falun Gong practitioners. It was reported that RTL involves detention without charge or trial, and without judicial review, for between one and three years – which can be further extended by one year. People receiving terms of RTL allegedly have no right of access to a lawyer and there is no hearing for them to defend themselves.

57. In this connection, the Special Rapporteur drew the attention of the Government to the following individual cases:

(a) On 10 March 2004, information was received concerning the critical health condition of **Tang Yiewen**, a Falun Gong practitioner from Zuhai suburb of Guangzhou City (Guangdong Province), who was reportedly detained at the Chutou Law School, in Guangzhou Baiyun district. On 23 February 2004, Ms. Tang was reportedly taken away from her home and it was reported that she had been on hunger strike for 17 days to protest her detention. Reports indicated that Ms. Tang had previously been detained and was subjected to torture for practising Falun Gong;

(b) On 27 February 2004, **Zhao Fengyun** a Falun Gong practitioner from Harbin City (Heilongjiang Province), reportedly died at the Wanjia Labour Camp. It was reported that Ms. Zhao was illegally arrested and that she was subjected to torture while in detention. Her husband, **Li Weiguo**, was also a Falun Gong practitioner and it was reported that he was imprisoned at the Changlinzi Labour Camp in Harbin City, Heilongjiang Province;

(c) On 31 January 2004, **Zhang Guoqing** from Hebei Province reportedly died after being severely beaten while in detention at Rujiang Labour Camp in Fuzhou City, Fujian Province. Mr. Zhang was reportedly arrested and sentenced to two years of forced labour on 31 May 2003 for practising Falun Gong. In June 2003, he allegedly held a hunger strike to protest the ill-treatment by guards while in detention and was sent to the Jianxin Hospital in Fuzhou City where he was force-fed. In August 2003, Zhang Guoqing was reportedly transferred to Rujiang Labour Camp where he was reportedly subjected to regular severe beatings. On 19 January 2004, he allegedly suffered internal injuries after being beaten by guards and was again sent to the Jianxin Hospital. He was reportedly sent back to the labour camp the same day. On 29 January 2004 Zhang Guoqing's health condition was reportedly critical and he was sent again to the Jianxin Hospital where he died on 31 January 2004.

58. In the same communication, the Special Rapporteur also referred to the case of Pastor **Gong Shengliang** of the South China Church, who has allegedly begged to be transferred from Hongshan Prison, Wuhan City, Hubei Province, telling his sisters, "If you are able in any way, please transfer me to another prison - otherwise just come and pick up my corpse." It is reported that Pastor Gong was unable to walk into the visiting hall and had to be carried in by four other inmates. One of the sisters allegedly asked the guard for an explanation and was told that he had fallen washing windows. When one of the sisters complained to the prison director, Sun Wenquan, about Gong's injuries, the director reportedly told her that Gong was a model prisoner in all ways but one, namely that he refused to denounce his Christian faith and would not stop praying and preaching.

59. On 15 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on violence against women, its causes and consequences, wrote a letter to the Chinese Government in which they expressed their concern at

reports of systemic repression against the Falun Gong and other “heretical organizations” (“*xiejiao zuzhi*”). Over the past five years, hundreds of cases of alleged violations of the human rights of Falun Gong practitioners have been brought to the attention of the Special Rapporteurs. Many of these allegations have been reported back to the Chinese authorities and were reflected in reports of the Special Rapporteurs to the Commission on Human Rights.

60. The Special Rapporteurs were concerned that reports of arrest, detention, ill-treatment, torture, denial of adequate medical treatment, sexual violence, deaths, and unfair trial of members of so-called “heretical organizations”, in particular Falun Gong practitioners, are increasing. They were concerned that these allegations may reflect a deliberate and institutionalized policy of the authorities to target specific groups such as the Falun Gong.

61. According to information received, on 10 June 1999, the Central Committee of the Chinese Communist Party established an office for dealing with the Falun Gong, commonly referred to as the “610 Office” (for the date of its establishment), and officially later as the State Council Office for the Prevention and Handling of Cults. This institution reportedly was given a mandate to repress Falun Gong and other “heretical organizations”, and is operating outside of the rule of law. Reports indicate that the Falun Gong was officially banned on 22 July 1999 through a decision of the Ministry of Civil Affairs and since then several decisions, notices, regulations and other judicial interpretations have been issued by the Government and judicial authorities to legitimize the official repression against “heretical organizations”, including the Falun Gong.

62. In addition, according to reports, a media campaign was launched against the Falun Gong and Falun Gong practitioners in June 1999. It is believed that this campaign followed a protest gathering in Beijing on 25 April 1999, involving more than 10,000 Falun Gong practitioners.

63. Further reports indicate that in February 2001, the Central Committee of the Communist Party called for a Central Work Conference of high-level party officials. The purpose of this meeting was reportedly to adopt a plan calling for the formation of local “anti-cult task forces” in all universities, State enterprises and social organizations, to reinforce the “610 Office” and strengthen local control over the Falun Gong.

64. An analysis of reports received by the Special Rapporteurs indicates that the alleged human rights violations against Falun Gong practitioners, including systematic arrest and detention, are part of a pattern of repression against members of this group. Most of those arrested are reportedly heavily fined and released, but many are detained and ill-treated in order to force them to formally renounce Falun Gong. Those who refuse are sent to re-education through labour camps, where reportedly torture is used routinely, resulting in many deaths.

65. The Special Rapporteurs were further concerned at reports that few Falun Gong practitioners are prosecuted. When charges are laid they reportedly include allegations such as “disturbing social order”, “assembling to disrupt public order”, “stealing or leaking State secrets” or “using a heretical organization to undermine the

implementation of the law". According to the information received, those prosecuted have been unfairly tried and many have received lengthy prison sentences. In this respect it is reported that on 5 November 1999, a Notice issued by the Supreme People's Court instructed all local courts to do their "political duty" in bringing to trial and punishing "severely" those charged with "crimes of heretical organizations", "particularly Falun Gong", and to handle these cases "under the leadership of the Party committees".

66. On 19 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government of China regarding **Tenzin Deleg Rinpoche**, a 54-year-old Buddhist religious leader whose case has been addressed by the Special Rapporteur in the past (see, inter alia, A/58/296, para. 33). According to information received, he was at imminent risk of execution, following a conviction based on a confession obtained under torture. It was reported that he was arrested on 7 April 2002 following a bombing incident in Chengdu, Sichuan Province, on 3 April 2002. He was found guilty on 29 November 2002 in a secret trial by the Kardze (Ganzi) Intermediate People's Court in the Kardze Tibetan Autonomous Prefecture, Sichuan Province, for "causing explosions" and "inciting separatism". On 2 December 2002 he was sentenced to death with a two-year suspension of execution, which would expire on 2 December 2004. Tenzin Deleg Rinpoche was reportedly held incommunicado for eight months, from the time of his arrest until the time of his trial. He was reportedly tortured in detention, including by being shackled hand and foot and suspended from above, and forced to confess. His conviction was upheld on 26 January 2003 by the Sichuan High People's Court, and he was moved to a secret location afterwards. Numerous and credible reports have referred to serious procedural flaws during Tenzin Deleg Rinpoche's closed trial, in particular: violation of the right to a public trial; violation of the right to choose his own lawyer; denial of the right to know and have the opportunity to examine the evidence presented against him in court. In view of his alleged detention incommunicado and allegations of torture, concern was expressed for his mental and physical integrity, and that he may not have received a fair trial in accordance with international standards.

67. On 3 November 2004, the Special Rapporteur transmitted a communication to the Government of China in relation to information received according to which, on 21 September 2004, in the Dungan mosque of Burqin, in the north-western Xinjiang-Uighur autonomous region, the authorities compelled the local imam, Musa Ma, to put in his office an instructional display outlining banned activities. Among banned activities were: teaching religion "privately"; allowing children under 18 years old to attend a mosque; allowing Islam to influence family life and birth planning behaviour; propaganda associated with terrorism and separatism; religious professionals acquiring large sums of money; the declaration of "holy war" (jihad); and promoting "superstitious thoughts". The display also reportedly required all religious venues to display land certificates, building certificates, imam qualification certificates, operating permits, joint management contracts, and the appointment certificate of the head of the religious venue. Reports indicated that these displays were not compulsory in non-Muslim places of worship, like in the Xinjiang's two Orthodox churches. It was further reported that similar displays hung in the offices of nearly all the imams of Xinjiang's mosques.

68. Moreover, reports indicated that the Party-appointed committees, also called the mosque's "democratic management committee", must conduct regular sessions for religious professionals and lay persons disseminating legal regulations and Party policies. Such committees allegedly oversee activities in places of worship and are also known to exist in Tibetan Buddhist temples.

69. Finally, it was alleged that national-religious committees, which form part of the administration of every city, also maintain control over the lives of believers. Communities may only function once they have registered with the national-religious committee, and their leaders have to be drawn from people whose candidacy has been approved by the authorities. The leaders of all religious communities reportedly have to attend meetings of the national-religious committees during which officials explain to them what policy they should pursue with believers.

70. The Special Rapporteur also brought to the Government's attention information she had received according to which, following what was believed to be the largest survey to date on the extent to which the Chinese Government's Golden Shield Internet firewall denies access to religious web sites, certain religious web sites appear to be consistently blocked, although Chinese Internet users do have access to a range of web sites based outside the country that cover religious themes in Chinese or other languages. The tests that led to this conclusion were reportedly carried out from mid-May to mid-July 2004 and monitored Internet access in a variety of locations in China. The web sites to which access is reportedly automatically barred included those relating to the persecution of Christians and other religious faiths, the Dalai Lama, the Falun Gong religious movement, the Muslim Uigurs of Xinjiang and a number of Catholic sites, including the web site of the Hong Kong diocese and the Divine Word Missionaries in Taiwan. However, the web sites in European languages covering religious freedom issues, including those covering repression within China, were not blocked.

71. It was further reported that, in an alleged attempt to help remove "unacceptable" content from the web, the authorities launched a web site in June 2004 encouraging users to report "illegal" sites, including those on religious cult activity. Reports indicated that while "reporters" were assured of the confidentiality of the information they provided, they were warned that they would bear personal responsibility for reporting erroneous information.

Observations

72. The Special Rapporteur is grateful for the replies provided by the Government on 31 December 2004 related to the communications of 15 and 19 October 2004. The content of these replies, which are still being translated, will be reflected in next year's report.

73. The Special Rapporteur still awaits a reply to her communication of 3 November 2004. In this regard, she would like to refer to the most recent concluding observations of the Committee on the Elimination of Racial Discrimination of 9 August 2001 (A/56/18, paras. 231-255) in which some members of the Committee remained "concerned with regard to the actual enjoyment of the right to freedom of

religion by people belonging to national minorities in the State party, particularly in the Muslim part of Xinjiang and in Tibet". The Committee recalled "that a distinctive religion is integral to the identity of several minorities and urge[d] the State party to review legislation and practices that may restrict the right of persons belonging to minorities to freedom of religion."

Democratic People's Republic of Korea

Communications and replies received

74. On 3 November 2004, the Special Rapporteur sent a communication to the Government of the Democratic People's Republic of Korea regarding information received according to which parents were reportedly afraid to pass on their faith to their children, as sporadic refugee accounts suggested believers were still punished for practising their faith in secret. Churches in the Democratic People's Republic lead an entirely underground existence, meeting in unpopulated areas of the countryside to evade bugging in homes or informants. It is often as refugees in China that citizens of the Democratic People's Republic of Korea first encounter religious life. Refugees repatriated from China have reported that they were interrogated about their contacts with mainly Protestant missionaries from the Republic of Korea, while the Koreans in the north have reportedly set up a fake Protestant Church in China to lure back defectors. In particular, a general in the army of the Democratic People's Republic who became a Christian was, after he had begun to evangelize in his unit, shot dead by another senior army officer in 2003. Other known Christians are in some cases shot or imprisoned. It was also reported that religious persons, particularly Christians, who are imprisoned are subjected to worse treatment than other prisoners. Prison guards sometimes allegedly offer material incentives to Christian prisoners if they recant their faith.

75. By letter dated 17 November 2004, the Government of the Democratic People's Republic of Korea responded that the information communicated by the Special Rapporteur was false and fabricated by those forces hostile to the country. This information was propagated either directly by these hostile forces or in the name of those who fled to other countries after committing crimes in the Democratic People's Republic. In the Democratic People's Republic, where a human being-centered policy is in practice, the human rights and fundamental freedoms of the popular masses are not only guaranteed legally but also exercised and enjoyed in reality. Religious freedoms and related activities are not an exception.

76. This act of fabrication is carried out by those hostile forces as part of their constant attempts to destroy the country's socialist system by using human rights as a tool in parallel with nuclear issues and is intended to defame its dignity and prestige. The Government therefore categorically rejected the allegations contained in the letter of 3 November 2004.

Observations

77. The Special Rapporteur is grateful for the reply provided by the Government of the Democratic People's Republic of Korea. Nevertheless, she notes that her concerns have been expressed in a similar way by other human rights mechanisms, including treaty bodies. In its most recent concluding observations on the situation in the Democratic People's Republic of Korea (CCPR/CO/72/PRK), the Human Rights Committee "note[d] with regret that the delegation was unable to provide up-to-date information about religious freedoms in the Democratic People's Republic of Korea.... [I]n the light of information available to the Committee that religious practice is repressed or strongly discouraged in the Democratic People's Republic of Korea, the Committee is seriously concerned that the State party's practice in this respect does not meet the requirements of article 18 of the Covenant".

78. In 2004, the Committee on the Rights of the Child, in its concluding observations on the Democratic People's Republic of Korea (CRC/C/15/Add.239), expressed its concern "about the lack of information on civil and political rights and persistent reports of limitations on the civil and political rights of citizens, including children, in particular freedoms of opinion, expression, thought, conscience, religion...."

79. In the light of the above, the Special Rapporteur would welcome more information about religious communities present on the territory, the number of its members and the number of places of worship, as well as the practical measures taken by the authorities to guarantee the freedom of exercise of religious practice by the communities.

Egypt

Communications and replies received

80. On 15 March 2004, the Special Rapporteur transmitted a communication to the Government of Egypt regarding the St. John the Beloved Coptic Monastery, located in the desert by the Cairo-Suez Road 30 km east of Cairo, which was reportedly under continuous threat of being demolished. The monastery was a residence village for handicapped children and orphans, Charity Isle of Patmos, and was composed of several buildings, including a church. The monastery was reportedly built 10 years ago with an easement of 50 m from the edge of the highway, in compliance with the then-existing code, and was surrounded by a 450-m brick fence. **Bishop Pietros**, the abbot of the monastery, reportedly applied for the necessary building permits, obtained all necessary permits from the respective authorities and complied with all of them as specified by the authorities at the time of the construction.

81. It was reported that the monastery has been attacked nine times in the last 6 ½ years by members of the local army unit, encouraged by high-ranking officers. Most recently, on 5 January 2004, 600 soldiers and two bulldozers reportedly attacked the monastery, partially destroying the fence and setting fire to structures on the premises. Bishop Pietros was allegedly singled out for attack. One staff member of the monastery was reportedly killed during the attack and several other staff members and

clergy were injured. Also, on 5 April 2003, the monastery was allegedly attacked by armoured vehicles, a bulldozer and tear gas bombs. On 18 November 2003, an army dump truck was reportedly driven into the perimeter surrounding the monastery.

82. Soldiers from the local army unit were reportedly seeking to destroy the wall in order to conform to a new law passed on 25 January 2003 that requires all buildings to be at least 100 m from the Cairo-Suez road. Yet, according to information received, many other buildings in the area were much closer to the road, including several mosques and the local army barracks, but no attempts had been made to demolish any of these buildings.

83. In the same communication, the Special Rapporteur also advised the Government that he had received information according to which, on 28 November 2003, **Bolis Rezek-Allah**, a Christian, was reportedly arrested trying to leave the country. After being apprehended at the border with the Libyan Arab Jamahiriya he was held for 12 hours before being released. On 3 December 2003, Mr. Rezek-Allah was again detained and taken to the headquarters of the Security Police in Cairo (known as the Lazghouly Office) for interrogation. In detention, threats to Mr. Rezek-Allah's wife, **Enas Badawi**, were allegedly made. Mr. Rezek-Allah was released but police allegedly stated that they would continue to prevent him from leaving the country despite his reportedly having obtained the correct documentation to leave for Canada. It was reported that Mr. Rezek-Allah was originally arrested in the summer of 2003 on the charge of marrying a Muslim. Ms. Badawi had reportedly converted from Islam to Christianity before the marriage. Mr. Rezek-Allah was initially held in prison for three months, during which time he was reportedly also accused of helping Muslims convert to Christianity. On 24 September 2003, Mr. Rezek-Allah was allegedly forcibly removed from a flight bound for Canada. On that occasion, the police did not detain him, but it was alleged that they had kept him under close surveillance since then and kept preventing him from leaving the country.

84. The Special Rapporteur further brought to the attention of the Government information received according to which, on 7 November 2003, the Christian village of Girza Ayiat Giza was attacked by a group of 5,000 persons armed with light weapons. Eleven persons were reportedly hurt and significant material damage was incurred as a result of the attack. It was reported that the attack followed attempts by local Christians to extend their church building in the village.

85. Finally, the Special Rapporteur noted that according to information received, Bahá'ís were not allowed to indicate their religion on the birth certificates of their children. In one case, when filling out the birth registration form for their newborn, the parents reportedly left the space for religion blank, knowing that "Bahá'í" would not be accepted. A ruling dated 16 September 2003, issued by the Egyptian Ministry of the Interior, allegedly asserts that it is not permissible to leave the space for religion blank on an official registration form, nor is it permissible to write (in that blank) any religion other than those recognized – Christianity, Judaism and Islam. Moreover, the ruling goes on to state that it is not permissible for the father of any child to follow the Christian faith and for the mother to be a Muslim, "as this violates the public order", whereas in the present case the father was allegedly of Christian background and the mother of Muslim background,. Moreover, a recent fatwa issued by the Al-Azhar Islamic Research Academy in Cairo allegedly declared the Bahá'ís apostates.

86. By letter dated 18 June 2004, the Government of Egypt responded, with regard to the arrest of Bolis Rezk-Allah, that in February 2003, an investigator at the Department of Civil Affairs received information indicating that Bolis Rezk-Allah and his wife Enas Yahya Abd al-Aziz Mahmud had used a fake identity card and birth certificate to contract their marriage. Bolis Farid Rezk-Allah was arrested on 25 February 2003 and released on bail but his name was added to a list of persons who are prohibited from traveling pending the completion of an investigation. The arrest warrant and travel ban imposed on this person were issued in accordance with the law, after sufficient evidence had been gathered to charge him with falsifying official documents.

87. Regarding the attack on the Coptic monastery, the Government explained that for compelling military reasons, any new wall or installation erected along the Cairo-Suez desert highway must be sited at a distance of 100 m from the edge of the highway. The Pietros Association violated the regulation by building walls and initiating construction work on land situated at a distance of less than 100 m from the Cairo-Suez desert highway. Given the sensitivity of the issue, His Holiness Pope Shenouda III was contacted and a meeting between him and two senior Ministry of Defence officials was arranged in order to find practical ways to deal with the violations committed by the Association. Thanks to the wisdom of His Holiness Pope Shenouda III, an agreement was reached that the Ministry of Defence would construct alternative installations for the Association, at the Ministry's own expense and with the same specifications, along the Cairo-Suez desert highway. The Ministry of Defence is in the process of constructing the installations for the Association.

88. On 29 March 2004, the Special Rapporteur transmitted a communication to the Government of Egypt concerning four Coptic college students who were arrested in the southern Sinai region on 26 January 2004. The young men, aged between 19 and 20 years old, were reportedly on a recreational trip in the Sinai, carrying with them a small number of Christian books, Bibles, and Christian music tapes. The four were allegedly arrested and their property confiscated; at the time of the communication, they had allegedly remained imprisoned since their arrest. The four young men, arrested by Naweeba district police, are **Peter Nady Kamel, Ishak Dawood Yessa, John Adel Fokha** and **Andrew Saeed**. They have reportedly been charged with the creation of a group that poses a threat to national unity and social peace.

89. By letter dated 7 May 2004, the Government of Egypt responded that in January 2004, four persons (John Adel Fokha, Andrew Saeed, Peter Nady Kemel Baqtar and Ishak Dawood Yessa Laklha) were arrested in Naweeba, in the Governorate of Southern Sinai, under the terms of an arrest warrant issued by the Department of Public Prosecutions. These persons were charged with the following offences: forming a group for the purpose of undermining national unity; possession of publications and recordings aimed at achieving that purpose; exploiting religion and making false claims, by word and in writing, with a view to provoking social strife and threatening social peace. The Department decided to remand them in custody for 15 days, pending further investigations. Their period of remand in custody was extended several times. On 3 April 2004, the Southern Sinai Department of Public Prosecutions decided to release them on bail.

Observations

90. The Special Rapporteur is grateful for the details provided in the responses of the Government. Regarding the communication of 15 March 2004, she notes that the Government has not given its observations on the alleged attack against Girza Ayiat Giza and the question relating to the Bahá'ís. Recalling the most recent concluding observations of the Human Rights Committee (CCPR/CO/76/EGY), she encourages the Government to continue taking all necessary measures to ensure freedom of religion to all without discrimination.

Eritrea

Communications and replies received

91. On 15 March 2004, the Special Rapporteur sent a communication to the Government of Eritrea regarding a pastor known only as **Iyob**, from the *Kale Hiwot* (World of Life) evangelical Christian Church, and seven unnamed members of his congregation who were reportedly held incommunicado in November 2003 at a police station in the southern town of Mendefera. The eight were allegedly arrested by police on 23 November 2003 in Mendefera, where their church is based, 30 km south of the capital, Asmara. The reason for their arrest was unknown and they had not been charged with any offence. It was feared that they were detained solely for exercising their legitimate right to freedom of religion.

92. The main *Kale Hiwot* church in Asmara was reportedly closed down by soldiers in October 2003, apparently as part of the Government's actions to restrict religious freedom. The *Kale Hiwot* Church is one of 12 minority Christian Churches that were allegedly banned in May 2002 and ordered to register with the new Department of Religious Affairs, but were informally allowed to continue their religious activities. Churches complained at the registration requirements, which included providing extensive details of members and funds.

93. In early 2003, the authorities allegedly began a pattern of arrests of members of several of these Churches, breaking into church services and ceremonies, illegally detaining them for indefinite periods without charge, and subjecting prisoners to torture or ill-treatment to try to force them to abandon their faith. In August 2003, 57 school students on a compulsory course at Sawa military barracks were reportedly arrested and put in metal shipping containers in harsh conditions amounting to torture, because they were found with Bibles in their possession. At the time of the communication, over 330 members of minority faiths were said to be detained in different parts of the country.

94. On 14 June 2004, the Special Rapporteur sent a communication to the Government of Eritrea regarding Full Gospel Church leaders **Haile Naizgi** and Dr. **Kiflu Gebremeskel**, who were reportedly arrested at their homes in Asmara, on 23 May 2004. They were reportedly held incommunicado in the 1st and 6th police stations respectively, in Asmara. They were allegedly arrested solely because of their religious beliefs. They were at risk of torture to force them to abandon their faith.

They had not been taken to court within 48 hours, as required by law, or charged with any offence.

95. Tesfatsion Hagos, pastor of the Rema Evangelical Church in Asmara, was reportedly arrested on 27 May 2004 while on a visit to Massawa port. His whereabouts are not yet known, but he too is believed to have been arrested solely on account of his religious beliefs.

96. On 3 November 2004, the Special Rapporteur transmitted a communication to the Government of Eritrea in connection with information received according to which, on 25 July 2004, the police disrupted a Christian wedding ceremony in Senafe and arrested 30 people who were present. Police officers allegedly ordered everyone who was not a “Pente”, a derisive abbreviation for “Pentecostal”, to leave the place immediately. Many of the guests did so, but the 30 Evangelical Christians who stayed were taken to a police station. According to the information received, all but two of the prisoners were released after signing a document promising not to participate in any Evangelical Christian wedding in the future. The police reportedly continued to detain an evangelist, identified as **Michel**, of the Kale Hiwot Church, and **Teame Kibrom**, a man in his 80s, who were declared responsible for the marriage, which allegedly defied a government ban on Evangelical Church activities.

97. On 24 January 2004, Ms. **Akberet Gebremichael**, aged 30, Mr. **Asmerom Beraki**, aged 50, Mr. **Gebrehiwet Tedla**, aged 87, Mr. **Gebreselassie Adhanom**, aged 94, Mr. **Mikias Gebreu**, aged 19, Ms. **Rebka Gebretensae**, aged 39, Mr. **Samson Tesfalem**, aged 24, Mr. **Sertsu Yilma**, aged 55, Mr. **Tedros Atsbeha**, aged 25, Mr. **Tekle Gebrehiwet**, aged 40, Mr. **Tsegaberhan Berhe**, aged 41 and Mr. **Yemane Tsegay**, aged 41, all Jehovah's Witnesses, were reportedly arrested along with 26 other people, including eight children, while they were holding a religious service in a private home in Asmara. The Special Rapporteur on the question of torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a joint urgent appeal to the Government of Eritrea in connection with their case on 24 February 2004 and another joint communication was sent on 20 July 2004 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 Chairperson-Rapporteur of the Working Group on Arbitrary Detention. According to the information received, 26 individuals who were arrested at the same time as the 12 above-named persons were released. However, the latter were reportedly still detained incommunicado at an unknown location, without charge or trial. It is also reported that they were warned not to worship or conduct any religious activities again. It seems that the authorities have not publicly acknowledged the arrests or given any reason for them, but it is believed that these arrests might have been aimed at forcing them to abandon their faith, and to force those of conscription age (18-40) into military service.

Follow-up to previously transmitted communication

98. By letter dated 4 February 2004, the Government of Eritrea responded to a communication sent by the Special Rapporteur on 7 October 2003 and relating to the arrests of three members of the Jehovah's Witnesses “because of their religious beliefs” and their refusal “to comply with the military service law”, the brief detention

of some 50 members of the Charismatic Rhema Church, the arrest of 15 Christians and the arrest of two young people from the Evangelical Lutheran Church "after processing through the streets to celebrate Easter".

99. The Government replied that the Jehovah's Witnesses had not been arrested because of their religious beliefs but because they refused to participate in the National Service Programme, which is compulsory and universal.

100. Members of the Charismatic Rhema Church and other groups were detained briefly because they had deliberately, contemptuously and provocatively disobeyed the decision of the Government that no religious group could operate until after they had registered with, and acquired a permit from, the Government in accordance with the existing law. These groups had refused to register with the Government and apply for permits.

101. It is a clear manifestation of the leniency and tolerance of the Government that those who had so contemptuously and willfully broken the law of the country and challenged the authority of the Government were released with only a warning after a brief detention of 10 days. They were not "beaten" or "threatened with death" or attacked "by mobs, including priests". These charges are only malicious defamations. Only those who must serve in the compulsory and universal military, including presumably the two young people from the Evangelical Lutheran Church, have been taken to the Military Training Centre at Sawa. The claim that some in the armed forces have been "jailed for refusing to deny their beliefs and return to orthodoxy" is too fatuous for comment. Eritrea is a secular State that does not permit intolerance and religious fundamentalism of any type.

102. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted almost two years ago, provides as follows: (I) The national legislation of States constitutes the legal framework both for the realization and enjoyment of human rights and for the activities of the promotion and protection of human right. This means that both the State and individuals, groups and institutions of civil society have the duty to respect, promote and protect human rights. If Governments are duty-bound by law to respect, promote and protect human rights, then it is equally obvious that individuals, groups and institutions of civil society have the duty to respect the rights of their fellow citizens. They have to respect the law. No individual, group or institution of civil society can place itself above the law simply because it is engaged in activities for the promotion and protection of human rights. This is the core essence of the principle of "equality before the law". (II) No individual, group or institution of civil society is allowed to engage in illegal and criminal activities that violate the Charter of the United Nations, sabotage the unity, territorial integrity and sovereignty of a State, subvert legitimate Governments, and undermine other peoples' human rights under the cover of religious freedoms or human rights activities, or become a confederate of States that incite or aid, abet and sponsor individuals, groups or institutions of civil society to undermine a State's sovereignty and the unity of its people.

Observations

103. The Special Rapporteur is grateful for the reply sent by the Government and notes that her concerns have also been expressed by the Committee on the Rights of the Child in its concluding observations on the initial periodic report of Eritrea (CRC/C/15/Add.204). She would appreciate receiving a reply to her communications of 15 March, 14 June and 3 November 2004 as well as to her request for an invitation to visit the country.

Fiji

Follow-up to previously transmitted communication

104. By letter dated 19 January 2004, the Government of Fiji, in response to a communication sent by the Special Rapporteur on 10 October 2003, replied that its Constitution guarantees the right of every person to exercise his/her right of freedom of conscience, religion and belief within certain limitations on the grounds of public safety, public order, public morality, public education, and prevention of nuisance or the protection of interests of others. The Constitution also provides for any person whose right has been contravened to seek High Court assistance for redress. Finally, the Registration of Religious Bodies Act (Cap 68) was enacted in 1881 and needs to be reviewed.

105. The Government adds that in the aftermath of 11 September 2001, the Security Council adopted resolution 1373 (2001) which has far-reaching implications for the obligations of States. The resolution recognizes the threats posed to international peace and security by acts of terrorism motivated by intolerance and extremism and calls on States to work together in preventing and suppressing terrorist acts. The Government treats its obligations under resolution 1373 (2001) seriously because of the financial implications and sanctions that would follow for non-compliance with a decision of the Security Council, and considers that its obligations under the said resolution include adopting measures that would allow for an oversight mechanism over the activities of natural persons as well as legal persons and entities. The Government considers such measures necessary as in the recent past, charitable organizations, cultural organizations and religious bodies have been abused by criminal and terrorist groups in order to promote their illegal criminal activities. It has therefore been deemed appropriate and timely for the Government to act now on the above-mentioned 1881 Act.

106. The Government further indicates that the ministry charged with the administration of the Registration of Religious Bodies Act was currently reviewing the legislation so that appropriate changes could be made to ensure the accountability of officials of religious bodies and that the assets of such bodies are not misused or misappropriated for illegal purposes. It is a fact that the mushrooming of many new religious bodies within the Fijian community in particular has caused strain in relations within Fiji. These organizations have been the main catalyst for the breakdown in the orderly running of many villages and communities of rural Fiji. The Government considers that such a trend is not only new and foreign, but has also increased the burden of ensuring law and order amongst rural Fijians. The Fiji

Council of Churches (to which all religious bodies are affiliated) is well aware of this difficulty.

107. With respect to the statement attributed to the Attorney General and Ministry of Justice, the Government explains that it should be seen in the context of establishing a better mechanism for screening persons (locals and foreigners) wishing to establish Churches in Fiji and monitoring their activities. In this regard, the Government needs to know their sources of funding, requiring them to submit their annual reports, including financial statements, which identify the utilization of their funds. As to the requirements of Council resolution 1373 (2001) mentioned above, the Government's activities must be seen also in the context of the recent expulsion of a Sudanese missionary who spent many years in Fiji after being identified by foreign Governments as having links with terrorist organizations, which demonstrates that Fiji is not isolated from the scope of activities of international terrorism.

108. More generally, the Government is of the view that Commission on Human Rights resolution 2003/54 on religious intolerance must be interpreted as being subject to resolution 1373 (2001). In other words, the right to freedom of religion is not absolute and does not exist in isolation. Moreover, section 41 of the Fiji Constitution provides for constitutional redress for those persons or religious bodies who or which feel aggrieved by a decision of the Ministry of Justice. The judiciary in Fiji has always been ready to protect the rights of its citizens, as was amply demonstrated by the internationally renowned case of *Chandrika Prasad . President of the Republic of Fiji, the Attorney General and others*.

Observations

109. The Special Rapporteur is grateful to the Government of Fiji for its reply. She takes note of the observations made by the Government and would like to emphasize that, pursuant to article 4 of the International Covenant on Civil and Political Rights, even in time of emergency which threatens the life of the nation, certain rights cannot be subject to derogation, including article 18 related to freedom of religion or belief. Moreover, the Human Rights Committee has repeatedly stressed that counter-terrorism measures taken under Security Council resolution 1373 (2001) must be in full conformity with the Covenant.

France

Communications envoyées et réponses reçues

110. Le 16 mars 2004, la Rapporteuse spéciale a envoyé une communication au Gouvernement français attirant l'attention de celui-ci sur les informations qui lui ont été transmises concernant la Loi relative à l'application du principe de laïcité dans les écoles, collèges et lycées publics adoptée par le parlement français et portant insertion, dans le Code de l'éducation, d'un article L. 141-5-1 ainsi rédigé: « Dans les écoles, les collèges et les lycées publics, le port de signes ou tenues par lesquels les élèves manifestent ostensiblement une appartenance religieuse est interdit. »

111. Outre les nombreuses critiques qui ont été formulées relative à cette nouvelle disposition législative et, notamment, quant à sa compatibilité avec le droit international et, en particulier, avec les normes relatives au droit à la liberté de religion ou de conviction, la Rapporteuse spéciale a reçu de nombreuses plaintes émanant de différentes sources qui invoquaient, notamment, le caractère discriminatoire de cette loi vis-à-vis de ceux qui se réclament de la diversité culturelle et religieuse en général et de ceux qui professent la religion musulmane en particulier, parmi lesquels nombre d'entre eux estiment que la tenue vestimentaire de la femme s'inscrit davantage dans le cadre de la croyance que dans celui de la manifestation de la croyance.

112. Plus généralement, au-delà de la question du voile, ces mêmes sources estimèrent que cette loi était susceptible de porter atteinte à la communauté des musulmans. D'autre part, il avait été fait état de plusieurs incidents impliquant des femmes voilées qui auraient été agressées verbalement ou fait l'objet d'autres actes d'intolérance religieuse.

113. La Rapporteuse spéciale, sans se prononcer dans l'immédiat sur le fond, et tout en étant consciente des risques d'instrumentalisation de la liberté religieuse, souhaiterait attirer l'attention du Gouvernement français sur les risques de discrimination auxquels la nouvelle disposition pouvait conduire ainsi que sur le développement des tensions et de l'islamophobie qu'elle pourrait favoriser, autant que sur les possibilités d'atteinte à la diversité culturelle et religieuse qu'elle pourrait déclencher, étant par ailleurs entendu que l'espace scolaire ne peut être sérieusement dissocié de l'espace social.

114. Par une lettre datée du 1 juin 2004, le Gouvernement français a répondu que, tout d'abord, la liberté de religion est garantie, en France, par le dispositif constitutionnel, qui intègre la Déclaration des droits de l'homme et du citoyen de 1789. Celle-ci dispose, dans son article 10, que « nul ne doit être inquiété pour ses opinions, même religieuses, pourvu que leur manifestation ne trouble pas l'ordre public ». La Constitution de 1958 énonce solennellement dans son article 1^{er} que « la France respecte toutes les croyances ». Chacun est ainsi libre de croire et de pratiquer la religion de son choix, sans autre restriction que le respect dû à chaque citoyen et la nécessité de ne pas porter atteinte à l'ordre public. De façon concrète, c'est un ensemble fait de libre expression et de la possibilité pour chacun de recourir, si nécessaire, à une justice indépendante, dans le cadre d'un Etat de droit.

115. Le gouvernement indique ensuite que la France connaît, depuis la loi du 9 décembre 1905, un régime de séparation entre les Eglises et l'Etat. Ce régime de séparation ou laïcité n'est en aucun cas à confondre avec une attitude anti-religieuse. Il trace une ligne de partage claire entre, d'une part, ce qui relève de la conscience individuelle ou des choix personnels et, d'autre part, ce qui relève de l'Etat. Cette conception de la laïcité a deux implications principales. Premièrement, l'Etat français ne porte pas d'appréciation sur le contenu religieux de tel ou tel mouvement. Il se refuse même à définir ce qui est ou n'est pas religieux. La liberté de conscience et de pratique religieuse s'applique donc à tous. Les pouvoirs publics ont cependant le devoir de sanctionner des agissements frauduleux dénoncés devant la justice, quels que soient les auteurs de ces agissements. Dans ces conditions, ce ne sont ni la croyance, ni la foi qui est visées, mais bien le fait répréhensible au titre de la loi.

Deuxièmement, il n'existe pas, en France, de système d'enregistrement ou de reconnaissance des religions auprès des autorités publiques. Aucun primat ou traitement privilégié n'est accordé à un culte particulier. La proclamation par une association, constituée en vertu de la loi du 1^{er} juillet 1901 (qui concerne les associations de toute nature), de sa qualité religieuse n'entraîne aucun privilège, notamment en qualité de legs ou d'imposition. Certes, il existe un statut d'association cultuelle (loi du 9 décembre 1905), dont l'obtention dépend du Ministère de l'intérieur (décret préfectoral), sous le contrôle du juge administratif. Mais l'obtention de ce statut ne conditionne en rien l'exercice du culte. Il ne porte que sur l'octroi ou non d'avantages fiscaux, largement consentis, pour peu que deux conditions, rappelées par le Conseil d'Etat en 1997, soient remplies : une association cultuelle doit respecter l'ordre public et «agir seulement en vue de l'expression d'un culte», ce qui exclut toute activité commerciale.

116. Le parlement français a adopté, au mois de mars 2004, une loi «encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics » dont il convient de préciser l'objet et la portée.

117. Il ne s'agit pas d'interdire, de façon générale, tel ou tel signe religieux lié à une confession particulière, ce qui serait source de discriminations. La loi française ne stigmatise aucune religion. Elle ne comprend pas de liste de signes religieux interdits. Elle ne concerne que le système éducatif public, sans que l'interdiction soit pour autant systématique : dans les écoles, collèges ou lycées publics, seul le port de signes ou tenues manifestant «ostensiblement» une appartenance religieuse est prohibé (article 1 de la loi). Il n'a pas été donné dans la loi de définition figée et rigide de cette manifestation ostensible d'une appartenance religieuse. Il fut précisé que la loi, qui entra en vigueur lors de la dernière rentrée scolaire, serait mise en oeuvre avec un «souci constant de dialogue et de pédagogie». L'université française, quant à elle, n'est pas concernée par la loi.

118. L'objectif de la loi est clair : réaffirmer de façon solennelle que l'école publique est un lieu de transmission du savoir où la neutralité doit être préservée et l'égalité, entre les filles et les garçons, absolument défendue. La liberté d'expression des croyances ne peut trouver de limites que dans la liberté d'autrui et dans l'observation des règles de vie en société.

119. Les pouvoirs publics français s'emploient à donner toute sa place à l'enseignement du fait religieux dans les écoles publiques. Il ne s'agit pas seulement de développer l'importance, déjà significative, dans les programmes, de l'enseignement de l'histoire des religions. Depuis la publication, en février 2002, du rapport de M. Régis Debray sur «L'enseignement du fait religieux dans l'Ecole laïque», l'effort porte sur la formation initiale ou continue des professeurs, afin de leur donner tous les moyens pour traiter des questions ayant trait aux religions. Cet effort est animé par un souci de meilleure connaissance, et donc de respect et de tolérance à l'égard des différentes confessions et convictions.

120. L'élection d'un Conseil français du culte musulman (CFCM), au mois de mai 2003, a permis de donner à l'islam toute sa place parmi les grandes religions présentes sur le sol français. La composition du Conseil reflète la pluralité des musulmans de

France. Le CFCM a pour objectif de faciliter le traitement de l'ensemble des questions ayant trait à l'organisation du culte musulman en France et d'être l'interlocuteur des pouvoirs publics. Sa constitution participe d'une logique de meilleure intégration de l'islam à la société française.

121. Finalement, le Président de la République a institué, en novembre 2003, un Comité interministériel de lutte contre le racisme et l'antisémitisme (CIRA). Ce comité se réunit tous les mois, sous la présidence du Premier ministre. Il ne s'agit pas d'une structure administrative supplémentaire : le Comité travaille à renforcer les moyens de lutte existants et à mieux les coordonner, et ce au plus haut niveau de l'Etat. Les objectifs de ce Comité excèdent la question de la liberté de religion et de conscience, mais certaines mesures prises sont directement liées au respect de celle-ci. Un programme d'actions spécifiques (déploiement de forces de police, mobilisation des moyens judiciaires, réalisation de travaux) a été mis en place pour renforcer la sécurité des lieux de culte, à la suite des profanations et des violences intervenues à l'encontre de plusieurs d'entre eux (juifs, chrétiens ou musulmans). Les pouvoirs publics se sont notamment mobilisés pour lutter, avec la plus grande fermeté, contre la recrudescence du nombre de violences antisémites sur le territoire français.

Observations

122. La Rapporteuse spéciale remercie le Gouvernement français pour sa réponse détaillée et la coopération dont il a fait preuve à l'égard du mandat sur la liberté de religion ou de conviction en acceptant la visite prochaine de la Rapporteuse spéciale en France.

Georgia

123. On 10 November 2004, the Special Rapporteur transmitted a communication to the Government of Georgia regarding the case of **Zurab Khutsishvili**, a local Baptist deacon, who was reportedly banned by the police in Velistsikhe in mid-October 2004 from building a small home following opposition by other villagers who claimed he would use the home to hold Baptist services. Mr. Khutsishvili had reportedly been in charge of the village congregation of some 25 Baptists for the previous four years. He obtained planning permission to build the house on land he owned in the village. Reports indicated that, as soon as he started to build the house, neighbours, allegedly encouraged by a young Orthodox priest, called the police who arrived soon after and threatened Mr. Khutsishvili with expulsion from the village. It was further reported that two fellow Baptists helping him build the house were beaten by local villagers at the end of October.

124. In mid-October 2004, Pastor **Georgi Chitadze** from the Word of Life Church in Gori reported that the congregation in Rustavi was still being denied the possibility of renting any public hall for worship. Local officials were still allegedly refusing to register the Church's ownership of an office it bought in Gori three years before. According to the information received, although all the fees were allegedly paid and all the necessary documents presented, there would have been an oral instruction not to register it.

125. In early October 2004, Lutheran Bishop **Andreas Stoekl** travelled to Bolnisi to lead a service in the Lutherans' small church there. Upon arrival, a poster was reportedly found on the door of the church declaring "We do not want you here - leave this place!" The following Sunday, another similar poster was reportedly found and the door of the church was allegedly damaged so badly that it could not be opened.

Observations

126. The Special Rapporteur has taken note of recent positive developments regarding the situation of freedom of religion or belief and these developments should be analysed in the light of the report submitted by her predecessor after his visit to Georgia in September 2003 (see E/CN.2004/63/Add.1). Nevertheless, awaiting the reply of the Government to her communication of 10 November 2004, she is concerned that alleged incidents of religious intolerance continue to occur throughout the country and would welcome receiving information on the measures that have been undertaken by the Government pursuant to the recommendations made by her predecessor.

Greece

Follow-up to previously transmitted communication

127. By letter dated 5 February 2004, the Government of Greece, in response to a communication sent by the Special Rapporteur on 10 October 2003 related to alternative military service for conscientious objectors, stated that it had established alternative service on 1 January 1998, an institution that is now constitutionally provided for under the last amendment to the Constitution. The Government also aims to continuously improve this alternative service so that it complies fully with international standards. To this end, the Government reported about a number of legislative measures it had taken, including (a) the possibility of reassignment (i.e. transfer) of conscientious objectors after the completion of alternative service of at least 12 months, provided that there were serious family or social reasons; (b) deletion of the convictions for disobedience from the conscientious objectors' criminal record, provided that they have served their sentence or have been released on parole; (c) abolition of the disqualification for appointment to the civil service for those who have completed alternative service; (d) provision of the same pension time and employment protection for alternative service as for regular army service; and (e) replacement of the fixed service increment with a gradual increment associated with the term that would apply if they carried out regular military service. In this connection, the Government wished to underline that a law was to be adopted by Parliament further reducing the term of alternative service, which now lasts for 6-24 months, pro rata according to the term of regular service that conscientious objectors would otherwise be required to fulfill.

128. The prosecution of Mr. Petromelidis was an isolated event that resulted from his refusal to perform the alternative service required under the law in force at the time when he was recognized as a conscientious objector, and under no circumstances did it reflect the real picture of alternative service and human rights in Greece.

Moreover, all the legal and practical aspects of this complex issue were at the time of the reply being examined, so Mr. Petromelidis - and probably others in a similar situation - would be given a second chance under the law to perform alternative service and thus have the charges of military offences having been committed withdrawn.

India

129. On 15 March 2004, the Special Rapporteur transmitted a communication to the Government of India regarding the following cases:

(a) Fr. **Stanny Ferreira**, a Salesian parish priest of Alirajpur, was reportedly attacked and severely beaten by a crowd on 17 January 2004. Fr. Ferreira was reportedly returning by car from Jhabua when his vehicle was shot at and the driver lost control and hit an electric pole. A crowd allegedly attacked the priest and beat him while the vehicle was set ablaze. The attack followed the rape and murder of a 9-year-old girl who was found in the diocesan mission compound in Jhabua on 11 January 2004. It was reported that on 13 January 2004, the Vishwa Hindu Parishad (VHP) and Sangh Parivar declared a day of protest, allegedly accusing Christians of the murder. It was alleged that groups related to the Sangh Parivar held processions in different towns during which effigies of the bishop and priests were burnt, slogans against Christianity were shouted, and inflammatory leaflets against Christianity were distributed. On 14 January, a large crowd allegedly entered the campus of the Catholic Mission School in Jhabua and several priests were beaten, and significant material damage was incurred. The occupants of the campus were reportedly evacuated. On 15 January 2004, a non-Christian individual who worked in an office near the church allegedly confessed to the murder;

(b) On 16 January 2004, a crowd reportedly forcibly entered the premises of the **Church of North India** mission in the village of Amjut and distributed anti-Christian material, disrupted exams and tore down religious posters. Inhabitants of the predominantly Christian village, many of whom are second- or third-generation Bhil converts, reportedly started throwing stones at the attackers, forcing them to flee. It was reported that, in retaliation, armed Hindu activists descended on the village and the ensuing clashes led to one death and several injured;

(c) According to the information received, **numerous Muslim men** have been illegally detained since March 2003 in the Gayakwad Haveli Police Station in Ahmedabad. While it was reported that many of them have subsequently been formally arrested under the Prevention of Terrorism Act, a large number of illegal detainees allegedly remained in custody in the police station. It was reported that a climate of fear was prevailing within the Muslim community in Gujarat, which meant that most were too afraid to make official complaints about illegal detention or about torture and ill-treatment. Courts reportedly failed to take action when confronted with allegations of illegal detention and torture. It was further alleged that the Prevention of Terrorism Act was being used arbitrarily and punitively against Muslims. It was reported that the police regularly threatened those illegally detained and their relatives that they would be charged under the Act if they failed to cooperate or made complaints about their treatment to the courts or to human rights organizations.

130. By letter dated 31 December 2004, the Government of India informed the Special Rapporteur that, with respect to the last allegation in the communication dated 15 March 2004, inquiries had revealed that since March 2003 the Crime Branch of Ahmedabad city had been investigating a number of cases where a number of accused had been arrested and witnesses examined. These cases were serious in nature and triggered the provisions of various sections of relevant legislation, including the Arms Acts and the Prevention of Terrorism Act (POTA).

131. According to the Government's response, during the course of the investigations, a number of people were summoned and their statements recorded as being witnesses of the incidents. They were neither detained nor threatened by any personnel of the Crime Branch. The accused also did not have any complaint against the Crime Branch officers; it was apparent from the court records that whenever they were produced before the various magistrates/judges, no complaint was made. The Government suggested that, since the offences were serious in nature and provisions of POTA were invoked, the accused and their relatives might have made the allegations to avoid or prevent their arrests. Members of both Hindu and Muslim communities were arrested and thus the allegations of the use of POTA against Muslims were baseless.

Indonesia

Communications and replies received

132. On 15 March 2004, the Special Rapporteur sent a communication to the Government of Indonesia concerning allegations that under a draft bill drawn up by the Religious Affairs Ministry, interreligious marriage and interreligious adoptions would be banned. Furthermore, the bill would allegedly prohibit people from attending religious ceremonies of a different faith and ban teachings that "deviate from the main teachings of that religion". It was also reported that the bill stipulated that places of worship could be established only with the permission of the Government. The draft had been criticized by religious leaders, who claimed it was biased against minority groups, such as animist-based faiths practised by many people in Kalimantan and Papua, and allowed the State too much interference in private religious practice. The proposed bill reportedly only recognized five religions as official religions in Indonesia. The draft bill failed to recognize Confucianism as an official religion, which seemed to contradict the 2002 presidential decree that included Lunar New Year – a Confucian religious day – as an official religious holiday. The Special Rapporteur also mentioned a series of attacks on mostly Christian villages in the **Poso** area of Central Sulawesi, reportedly raising fears of a return to the sectarian clashes between Muslims and Christians that afflicted Sulawesi and the neighbouring Maluku islands between 1999 and 2001. It was reported that the situation started to deteriorate in Poso following the killing of at least 10 people in the regency and in neighbouring Morowali regency on 12 October 2003. Later, a mob reportedly beat to death a 23-year-old Christian man during a protest over the fatal shooting by police of a suspect in the October attacks. In November 2003 an elderly church official and his driver were reportedly killed in Poso by unknown gunmen. Between 26 November and 30 November 2003, two separate attacks left four people dead in Poso. In the first attack on the village of Kilo Trans two migrants from mainly Hindu Bali were killed.

The second attack was on the predominantly Christian village of Marowo in Ulu Bongka subdistrict, killing two people – **Ruslan Terampi**, and **Ritin Bodel**. Four others, namely **Lumin Layagi**, **Sandra Pinkar**, **Yusmin**, and **Yunan**, were injured in the attack.

133. On 27 October 2004, the Special Rapporteur sent a communication in relation to information received according to which, on 3 October 2004, a group calling itself the Islamic Youth Front set up a barricade at a private Catholic school on Jl. Raden Saleh in Ciledug, Tangerang, arguing that the building was “inappropriately being used to hold services for another religion”. According to the information received, several Catholic families from the six districts of Ciledug, Karang Tengah, Larangan, Pinang, Pondok Aren and Serpong had been using the building on Saturdays and Sundays for mass over the previous 12 years because they were unable to build a church at a nearby site. Concerns had been expressed that the group's action could have disrupted classes that week at the Sang Timur Catholic School, which is owned by the Sang Timur Foundation. It was reported that the same group of youths had held two similar demonstrations in August 2004. A representative of the Islamic Defenders Front (FPI) denied having any formal links with the youth group but allegedly recognized that the FPI gave moral support to the Islamic Youth Front of Karang Tengah subdistrict and had sent a few of its members to the demonstration.

Observations

134. The Special Rapporteur awaits a reply to her communications as well as to her request for an invitation to visit Indonesia.

Islamic Republic of Iran

135. On 15 March 2004, the Special Rapporteur sent a communication to the Government of the Islamic Republic of Iran in relation to information received according to which in the last week of January 2004, individuals in the city of Babul began to destroy a property with great religious significance to the Bahá'í community worldwide, as it was the resting place of Mulla Muhammad-'Ali Barfurushi, known as Quddus (the most holy). It was reported that a further attempt was made to raze the site, but this was stopped by local Bahá'ís who stood in front of the bulldozer and demanded to see the legal permit for the demolition. As the permit could not be produced, the operator of the bulldozer allegedly ceased to proceed with the destruction.

136. The Special Rapporteur also mentioned that according to information received and, more particularly, an announcement published on 1 December 2003 in the Iranian periodical *Payk-i-Sanjish (Examination Bulletin)*, the title of which can be translated as "For the Applicants to the National University Entrance Examination for the Year 1383 [2003/2004] – Registration", the question that specifically required university applicants to state their religious affiliation was replaced, as of 2003/04, by the following question: “If you are sitting the examination for Non-Islamic Studies, indicate for which one of the following” (the applicant has to tick one of four boxes: None; Jewish; Christian; Zoroastrian).

137. On 10 June 2004, the Special Rapporteur sent another communication in connection with the building over the grave of Quddus (see above), which in the interim had reportedly been completely levelled. Despite attempts to protect the site, it was reported that the demolition of the rest of the structure had continued gradually and quietly, in a manner designed not to attract attention. Subsequently, the Bahá'ís were allegedly prevented from retrieving the remains of Quddus. The Bahá'ís in Babul reportedly approached the local clergy, who directed them to the local prosecutor, who referred them to the Ministry of Information, which refused to issue the necessary permission.

138. On 14 June 2004, the Special Rapporteur sent a communication in relation to information according to which on 23 May 2004, the Iranian police arrested **Khosroo Yusefi**, a Protestant pastor, along with his wife Nasrin and two teenage children, an 18-year-old son and a daughter aged 15. The arrests allegedly took place in Chalous, a town on the Caspian Sea coast in northern Iran. The family reportedly remained imprisoned without known charges. Reportedly, dozens of members from two of Pastor Yusefi's church groups were jailed in the first week of May and later released. However, the arrest of 23 May allegedly marked the first time that the entire family of a Christian leader had been taken into custody.

139. By letter dated 21 December 2004, the Government of the Islamic Republic of Iran responded that, according to the information received from the judiciary of the Islamic Republic of Iran, no record had been found of Mr. Khosroo Yusefi and his family.

140. On 20 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences transmitted an urgent appeal to the Government regarding **J.I.**, aged 13, who was reportedly sentenced to death by stoning in Marivan for adultery and was at risk of imminent execution. According to the information received, she was raped by her 15-year-old brother and became pregnant. She gave birth to her baby about two weeks before the urgent appeal was sent. It was reported that J.I. would not have the possibility to appeal the sentence, which was said to be carried out in the following days. Her brother was sentenced to 100 lashes, in accordance with Islamic laws. He was in prison in Tehran awaiting his punishment.

141. On 3 November 2004, the Special Rapporteur transmitted a communication to the Government regarding **Hamid Pourmand**, a lay pastor in the Assemblies of God Church, and 85 other Evangelical Church leaders who were arrested during a meeting in the city of Karaj on 9 September 2004. It was reported that 76 of those arrested were released the same day and 10 pastors were kept for interrogation about other Christian leaders for three more days. The nine colleagues of Hamid Pourmand who were released were warned that they should expect to be summoned again in a few weeks for more questioning. When Hamid Pourmand's family returned to their residence after a stay in Tehran, they discovered that their home had been broken into and ransacked, with all of the family's papers, documents and photographs removed. Iranian authorities had refused to give any reason for the arrest and prolonged detention of Hamid Pourmand.

General information received from the Government

By letter dated 28 June 2004, the Government of the Islamic Republic of Iran provided the Special Rapporteur with information about the latest developments in the administration of justice with respect to minorities, in particular, the establishment of the Committee of Minorities, which would be competent to deal with the problems of religious minorities in Iran; the issuance of a presidential circular on the facilitation of recruitment of members of religious minorities to the public sector; and the adoption of a bill which would allow members of minorities to receive blood money equal to Muslims, a law that in practice had been enforced in various court cases.

Observations

142. The Special Rapporteur thanks the Government for the information received. However, she is still awaiting replies to the several communications related to particular cases, as well as a reply to her request for an invitation to visit Iran.

143. She would also like to draw the Government's attention to the fact that the information she has received, including concerning the Bahá'ís, was the subject of concern expressed by the Committee on the Elimination of Racial Discrimination in its most recent concluding observations on Iran (CERD/C/63/CO/6 of 21 August 2003) in which it noted "the reported discrimination faced by certain minorities, including the Bahá'ís, who are deprived of certain rights, and that certain provisions of the State party's legislation appear to be discriminatory on both ethnic and religious grounds". The Special Rapporteur therefore joins the Committee in recommending "that the State party ensure that all persons enjoy their right to freedom of thought, conscience and religion, without any discrimination based on race, colour, descent or national or ethnic origin ... [and] that the State party permit students of different origins to register in universities without being compelled to state their religion.

Iraq

144. On 10 November 2004, the Special Rapporteur transmitted a communication to the Government of Iraq regarding information according to which on 7 November 2004, several men reportedly attacked a Christian church in Doura district in south Baghdad and set it on fire. The ensuing explosion injured at least 20 persons. Earlier, before dawn on 16 October 2004, five churches were hit by bomb attacks that seemed designed to intimidate the country's small but deep-rooted Christian community. This followed a deadlier series of bombings of five churches in Baghdad and Mosul that reportedly took place during evening services on 1 August 2004, killing 11 people and wounding more than 50. The wave of explosions began after 6 p.m. as parishioners gathered inside their neighbourhood churches for services. In the past year alone, over 100 reported and confirmed victims have been members of the Chaldo-Assyrian community.

145. The attacks against Iraq's 750,000-member Christian minority seemed to confirm community members' fears that they might be targeted as suspected collaborators with United States forces, amid a rising tide of Islamic fundamentalism.

146. These bombings were reportedly not the first time Iraqi Christians have come under attack in the past 14 months. Several Christian merchants have had their shops burnt down, allegedly because they sold alcohol. In particular, several incidents occurred around Christmas; in February, five Christian roadside vendors were shot in Basra; on 8 May 2003, two Christians were shot dead in Basra by suspected Islamic militants attempting to stamp out the sale of alcohol. The men, who were alcohol vendors in a district of the southern Iraqi city that is home to Armenian and Syrian Catholics, were allegedly shot within 10 minutes of each other in their shops by two men. Several more attacks on Christians in Baghdad and Mosul were reported to have taken place in June 2004. These events and inter-community tensions have led to an outflow of Christians from Basra to neighbouring countries, according to UNHCR.

147. The Special Rapporteur also mentioned recent reports that indicated that Shiite Muslims living in the southern city of Latifiyah were thrown out of their homes by Sunni fighters, allegedly of Salafist background, who were trying to establish strict Sunni Islam in the city. They were told to go to the Shiite city of Nasiriyah, further south. According to these reports the fighters sent messages to families in Latifiyah telling them they would be killed if they did not leave. Moreover, it was reported that in early September 2004 two Shiite clerics, Sheikh Basher al-Jazaeri and Sheikh Kareem al-Bahadlei, were killed in separate incidents. Attacks on Shiite pilgrims and other civilians were also reported. A Shia shrine, Sayed Faraj, has been destroyed by Sunnites. Although policemen are still present in the town, they reportedly do not come to the aid of Shiites although Shia organizations have called on the Government to take steps to restore security in Latifiya.

Israel

148. On 10 June 2004, the Special Rapporteur transmitted a communication to the Government of Israel in connection with information received according to which there had recently been obstruction in the renewal of visas for clergy (A3 visas) by Israeli authorities. Clergy visas were allegedly being denied or were renewed with severe limitations. A delay of months, often far beyond the expiration date of the old visas, in receiving a recommendation or a visa was also reportedly a common occurrence. Some visas would be issued for only months rather than the usual one to two years. The result was that many Christians remained in Israel illegally, affecting their ability to move about and do their work. It was feared that those remaining in Israel without a visa faced being arrested and deported and those who were leaving faced being denied re-entry at the airport. A more recent alarming situation was reportedly the refusal to renew the visas of many senior clergy simply because they were not senior leaders of a large parish or congregation.

Kazakhstan

149. On 3 November 2004, the Special Rapporteur sent a communication to the Government of Kazakhstan in relation to a number of cases. On 7 June 2004, **Vasili Kliver**, pastor of a Baptist church in Aktobe, was found guilty under article 375, Part 1 (breaking the law on religious organizations), and article 525 of the Code of Administrative Offences (refusing to appear to give evidence when summoned by the procuracy) by Court No. 2 in Aktobe. He was reportedly fined twice the minimum

monthly wage. The judge also reportedly ordered the church to close for six months. According to the information received, Pastor Kliver was twice fined in 2003 for leading his Baptist congregation without State registration.

150. On 6 May 2004, Pastor **Pyotr Panafidin**, who leads a Baptist church in Taraz, was reportedly summoned to the City Court after prosecutors had established that he led an unregistered congregation. The judge reportedly found him guilty under article 375, Part 1, of the Administrative Code and fined him 1,838 tenge.

151. Concerns have also been expressed that at least five churches of the International Council of Evangelical Christians/Baptists, which allegedly refused to register with the State authorities, had been raided or fined in 2004.

152. Finally, members of religious communities were concerned about the existence of a draft law on “combating extremist activity” and amendments to existing laws concerning the “battle against extremist activity” which did not reportedly define what “extremism” constitutes. Concern had been expressed that the word “religious” appeared 10 times in the draft law and that the proposed measures could be used against religious communities such as the unregistered Baptists. It was reported that article 1 of the draft law defined extremism in such a vague manner that the definition could allegedly be applied to any religious association. According to the information received, article 6 of the draft law substantially strengthened State control over the life of religious communities although no definition of “extremist” was given.

Kyrgyzstan

153. On 15 March 2004, the Special Rapporteur sent a communication to the Government of Kyrgyzstan in connection with information received according to which six of the nine mosques in the district of Kararya, near Jalalabad, had started to be destroyed on the orders of the head of the district, Asan Erinbayev. In May 2003 the six mosques were allegedly closed down despite being registered with the Government’s Commission on Religious Affairs. Mr. Erinbayev reportedly justified the destruction of the mosques on the grounds that they had been built illegally on State-owned land. Mr. Erinbayev reportedly declared that this would enable him to “monitor the activities of the imams in [his] territory”.

154. In the same communication, the Special Rapporteur mentioned the situation of the Pentecostal Church of Jesus Christ, which has allegedly been banned from registering in several towns. It was also reported that the Pentecostal Church was facing a tax bill of more than US\$ 100,000 even though religious groups are tax-exempt. The authorities had reportedly threatened to seize a church building in Bishkek if the tax was not paid.

155. By letter dated 7 May 2004, the Government of Kyrgyzstan responded that according to the Adviser on Religious Affairs to the Governor of Jalal-Abad, the information concerning the closure and destruction of six mosques was completely false. According to information from the deputy head of the Kara Darya *ayil okmotu* (village authority), there are three villages in the area with a total population of 11,500 and there are 17 mosques, built at the end of the 1980s and the beginning of the 1990s. Most of the mosques were built spontaneously without authorization

from the local authorities and without architectural plans. Of the 17, four had been registered with the State Commission on Religious Affairs and Friday prayers were held in those mosques. In seven mosques, daily prayers are conducted five times a day. The remaining six mosques functioned as prayer rooms and were not registered by the State Commission on Religious Affairs. In 2003, because of their poor and unauthorized construction, the activities of these mosques were temporarily suspended by the authorities, with “the consent of the inhabitants of the village”.

156. This issue was also raised in the Legislative Assembly of the Jogorku Kenesh (Parliament) of Kyrgyzstan, which pointed out that violations of Kyrgyz citizens' right to freedom of religion and conviction were inadmissible and that this matter was under the constant scrutiny of the State Commission on Religious Affairs and the Suzak district administration of Jalal-Abad oblast.

157. The Pentecostal Church of Jesus Christ was registered with the State Commission on Religious Affairs on 3 November 1998 (certificate No. 0216-ROKH). According to its official web site, the Church has 47 branches in Kyrgyzstan, 5 of which have been registered and the rest engaging in religious activities without registration, in contravention of Kyrgyz legislation currently in force. To date, the State Commission on Religious Affairs has not refused to register a single religious building belonging to religious organizations and has not issued a single act ordering the suspension of their activities. Moreover, in 2003, the Church was notified on two occasions that it must register the rest of its branches. The relevant documents have now been submitted for registration and are currently under consideration.

158. The Government also indicated that the Income Committee considered appeal No. 43 filed by the Church on 16 May 2003 in connection with an audit of 1 March 2003. In accordance with article 93, paragraph 1 (d), of the Tax Code of Kyrgyzstan, the total annual income includes property and financial resources received free of charge. The auditor correctly included donations and fixed assets in the total annual income of the Church of Jesus Christ. In accordance with articles 97, 98 and 105 of the Tax Code of Kyrgyzstan, the auditor calculated the deductions from the total annual income with a view to determining the amount of taxable profits; the calculations are well-founded. The Ministry of Finance considered appeal No. 60, submitted by the Church on 11 July 2003 and, pursuant to article 57 of the Tax Code, confirmed the decision of the Income Committee. The audit of 1 March 2003 and the notification of tax therefore remain in force.

Observations

159. The Special Rapporteur is grateful to the Government of Kyrgyzstan for the details provided in its reply and would like to remind it of her request for an invitation to visit the country.

Lao People's Democratic Republic**Communications and replies received**

160. Le 10 juin 2004, la Rapporteuse spéciale a envoyé une communication au Gouvernement de la République démocratique populaire lao concernant la répression anti-chrétienne qui semblait s'intensifier depuis le début de l'année 2004 dans plusieurs villages du district de Sanamsay, province d'Attapeu (Sud). Dans des appels à l'aide adressés au siège de l'Eglise évangéliste lao à Vientiane entre le 3 et le 19 février 2004, des chrétiens des villages de Ban Donthapad et de Ban Donsua (district de Sanamsay) auraient fait état d'une série de faits troublants à leur rencontre, visant à les contraindre à renoncer à leur foi : menaces de mort répétées, tentative de renversement par véhicule à moteur, confiscations de rizières et de bétail, confinement, menaces d'expulsion du village, menaces de destruction d'habitations par le feu, notamment. Selon certaines sources, lors d'une réunion dans la matinée du 19 février 2004 à Ban Donthapad à laquelle étaient convoqués les chrétiens du secteur, les hauts responsables locaux du régime auraient annoncé leur volonté "d'éradiquer totalement la chrétienté" du district de Sanamsay, avertissant les fidèles en des termes particulièrement menaçants. Le 4 mars 2004, les autorités de la province d'Attapeu auraient arrêté à son domicile Thong-Luang, un enseignant, parce qu'il aurait choisi de garder sa foi chrétienne. Celui-ci avait déjà été arrêté le 28 décembre 2003 pour avoir célébré Noël, puis relâché le 9 janvier 2004.

161. By letter dated 15 July 2004, the Government of the Lao People's Democratic Republic referred to its response of 21 April 2004 addressed to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning the alleged death threat against Christians in the district of Sanamsay, Province of Attapeu, in which it indicated that the allegations of mistreatment of Christian believers by the Lao authorities were not new and that on many occasions it had had the opportunity to provide clarification on these false accusations. By virtue of the Constitution, the Lao people of all ethnic groups have the right to believe or not to believe in any religion. The rights are fully guaranteed and no one has the right to threaten another on account of his/her religious belief.

162. Regarding the alleged death threats made by local authorities in Sanamsay district against Christians if they did not give up their faith, the Government indicated that, upon verification by the concerned local authorities, these allegations were false and groundless. Such allegations were deliberately fabricated with the aim of discrediting the image of the Lao Government and misleading the Christian community around the world about the reality of the religious situation in the country. The Government indicated that in the Lao People's Democratic Republic, 245 churches (with more than 357 clergymen) were operating and more than 147,000 Lao Christian believers practiced their faith freely, went to the church of their choice and lived in harmony with other religious communities.

163. On 3 November 2004, the Special Rapporteur transmitted a communication to the Government regarding a number of reports that indicated that the authorities have allegedly been coercing Christians in different regions to renounce their faith:

(a) On 11 August 2004, Nouthak Phoumsavan, an adviser to the President, reportedly held a meeting in Savannakhet City aimed at preventing Christians from gathering in homes throughout the province. Reports indicated that the believers were only allowed to assemble in church buildings that had government permission to operate. Believers in the whole of Champon district reportedly were allowed to meet in only one church;

(b) On 2 August 2004, **Khamsay** and **Thong Soun**, two Christian leaders from Vieng Samay village, and **Khamphaay** and **Pheang**, two Christians from Hua Muang village in Kasy district, were reportedly arrested because of their faith. It was further reported that, on 8 June 2004, the authorities ordered the believers in Vieng Samay village to stop meeting and confiscated their Christian literature;

(c) As from 1 August 2004, the Chonburi district chief reportedly ordered Christians to cease meeting in the Gyongya church, which had been a place of worship for many years. Reports indicated that the believers had been told that they were not allowed to worship unless they obtained permission from the central authorities;

(d) On 2 May 2004, a house church that had operated without problems for two years in Vientiane was reportedly ordered to close. About 45 people who came to the church that day were told that they would not be able to meet there any more;

(e) In March and April 2004, the police forced Christians in Nam Thuam village to remain at home and prevented them from tending their rice fields. The authorities then insisted that the Christians feed them everyday. It was reported that, at the end of this ordeal, the authorities burned their rice fields and took their citizenship papers. This persecution was so intense that it allegedly succeeded in forcing the believers to officially resign from the Christian faith.

164. By letter dated 7 January 2005, the Government responded that, regarding the alleged arrest of four individuals in Kasy district on 2 August 2004, the concerned authorities, upon verification, had found that the four accused were held in custody for investigation. The result of the investigation showed that they had defrauded people in Houamuang village and that the affected villagers had filed a lawsuit against them. At the time of the reply, their case was still pending in the Kasy District Court. These four individuals were detained not because of their faith, but for their wrongdoing. The Government indicated that it remains committed to respecting people's rights, including religious rights, in accordance with its national Constitution. Thus, arresting a person simply because of his or her religious belief would be a breach of the Constitution. The right is fully guaranteed and no one has ever been arrested on account of his religious belief, except for acts that violated the laws and regulations of the country.

165. Regarding the Christians allegedly ordered to cease meeting in Gyonya church in Xonboursy district as from 1 August 2004, a house church allegedly ordered to close in Vientiane on 2 May 2004 and Christians in Nam Thouam village allegedly forced to remain at home and prevented from tending their rice fields in March and April 2004, the Government declared that these allegations were false and groundless. Recalling that the allegations of mistreatment of Christian believers by the Lao

authorities were not new and that on many occasions the Government had had the opportunity to provide clarification on those false accusations, the Government reiterated that it has no policy of prohibiting or restricting the freedom of its people to practise their faiths, be they Christians, Buddhists, Bahá'ís or others. However, the Government indicated that it was taking stringent measures, in accordance with the law, against those who violate the law or plot unlawful acts against authority. The Government finally noted that, according to the law, individuals are not permitted to take advantage of any particular religion to organize an unlawful meeting with a view to creating division between religions and classes of people. Such acts violate article 52 of the Penal Code of 1989 as well as article 9 of the Constitution of the Lao People's Democratic Republic.

Observations

166. The Special Rapporteur thanks the Government for its reply and wishes to underline that, as mentioned in her general report (E/CN.4/2005/61), she carries out a close and detailed assessment of the information in order to ensure that the situations or cases that are transmitted to the Governments have a very high level of reliability.

Mexico

167. El 14 de junio de 2004 la Relatora Especial envió una comunicación con respecto a la situación de las familias pertenecientes a la **comunidad indígena Huichol** en Tenzompa, Jalisco. De acuerdo con las informaciones recibidas, más de 80 adultos y niños Huichol que se convirtieron al Gospel Cristiano estarían amenazados de ser expulsados de sus casas. Se informa que sus problemas habrían empezado en 1987 en su pueblo ancestral de Santa Catarina cuando el pequeño grupo empezó a construir una iglesia. Informes indican que miembros del grupo habrían sido víctimas de varias persecuciones, tales como raptos o encarcelamiento. El 24 de agosto de 2002, las familias cristianas habrían sido expulsadas de Santa Catarina. Se habrían refugiado en Tenzompa, donde sobreviven y esperan asistencia del Gobierno. Como no la han recibido, pidieron a los ancianos del pueblo que les dieran tierra para cultivarla y construir viviendas permanentes. Sin embargo, habrían recibido órdenes de expulsión. Si el Gobierno no interviene, las 18 familias tendrán que buscar otro sitio para sobrevivir a final del año escolar.

168. Por carta fechada el 10 de noviembre de 2004, el Gobierno mexicano contestó a la comunicación acerca de la situación de la comunidad indígena Huichol de Tenzompa, Jalisco. El Gobierno informó que los hechos referidos en la comunicación transmitida por la Relatora Especial son ciertos. Respecto a las investigaciones de estos hechos, informó que se tiene conocimiento de que desde 1999 algunos de los afectados han presentado denuncias relacionadas con estos hechos ante la Procuraduría General de Justicia del Estado de Jalisco. La Comisión Nacional de los Derechos Humanos y la Comisión Estatal de Derechos Humanos, además de seguir de oficio el asunto por ser una situación que afecta a un grupo vulnerable, recibió una queja del pastor Arturo Farela Gutiérrez, apoderado legal de la asociación religiosa Via Verdadera, lo que motivó la recomendación 62/2004. Según la comunicación recibida, la Comisión Estatal de Derechos Humanos del Estado de Jalisco ha tramitado la queja 1946/III, relativa a la violación del derecho a la educación de los

niños evangelistas y aún continua en trámite, debido a la implementación de las medidas cautelares dictadas para asegurar el acceso a la educación de estas personas. La Comisión Nacional de los Derechos Humanos y la Comisión Estatal de Derechos Humanos del Estado de Jalisco continuarán implementando las medidas necesarias para asegurar a los grupos vulnerables el libre ejercicio de su libertad de religión o de creencia. De igual manera, el Gobierno aseguró a la Relatora Especial que se continuará dando seguimiento a las quejas recibidas y a las recomendaciones emitidas por las autoridades pertinentes en relación con este asunto.

Mongolia

Communications and replies received

169. On 16 March 2004, the Special Rapporteur sent a communication to the Government of Mongolia in relation to information according to which churches seeking registration in Mongolia may have been denied registration on non-legal grounds, or were demanded bribes from local officials. They might also reportedly be fined, apparently for not having State registration, even though it was not compulsory under the 1993 religion law. Demands for money were also reportedly made by local officials even after registration has taken place. State registration appeared to be a particular problem for indigenous Mongolian churches. One church in Ulaanbaatar had reportedly been trying to obtain registration for five years, with no response from the authorities, even though they were legally obliged to issue a decision within 45 days.

170. It was further reported that there was a rising social concern about the activity of Christians in the country, particularly due to a belief that they advocated suicide. This had reportedly resulted in initiatives to toughen the 1993 religion law, which would allegedly include a ban on all unregistered religious activity; registration being made subject to ownership of a building for worship, a minimum of 500 members and sufficient clergy and religious books for them; a ban on religious activity outside a temple or church; refusal to register a religious organization if it belongs to a faith that has been made illegal in any other country, or if it has the same name as an already registered religious organization; and giving authority to *khurals* (local councils) to determine the percentage of minority religious organizations in relation to Buddhist organizations.

Myanmar

Communications and replies received

171. On 3 November 2004, the Special Rapporteur transmitted a communication to the Government of Myanmar regarding reports indicating that discrimination against religious groups by different government agencies had continued in 2004. Christian communities (ethnic Karen, Karenni, Chin, Kachin) as well as Muslim ones (Rohingya, etc.) alleged that there were systematic attempts to undermine their religious identities and restrict the conduct of religious activities.

172. According to these reports, the military had destroyed churches, had tried forcibly to convert Christians to Buddhism, and continued to use Christians for forced

labour. Also, several crosses in ethnic Chin areas were destroyed in 2004 (e.g. in April in Matupi), allegedly in order to be replaced by Buddhist pagodas. There were also reports that religious communities and religious gatherings were systematically hindered by the authorities.

173. Rohingyas, members of a Muslim minority, were regularly refused citizenship by the Government on the grounds that their ancestors allegedly did not reside in the country when colonial rule ended. This negatively impacts on other rights, such as access to secondary education and employment as civil servants. They also faced restrictions of their freedom of movement and were victims of forced labour. There were reports of the systematic eviction of Muslims from their villages, which were afterwards taken over for settlement of members of the Buddhist majority for so-called “model villages”. In the course of these evictions, mosques had been destroyed and replaced by Buddhist pagodas (e.g. in May 2004 in Maungdaw township).

Nigeria

Communications and replies received

174. On 7 May 2004, the Special Rapporteur transmitted a communication to the Government of Nigeria in relation to information according to which, on 2 May 2004, about 630 persons, most of them members of a community of Hausa-speaking Muslims, were killed as a result of new inter-religious violence in the village of Yelwa-Shendam, Plateau State. On Sunday, 2 May 2004, hundreds of Christian Tarok militia allegedly invaded the town of Yelwa, sealed off roads to the town with felled trees, and killed hundreds of Muslims with machetes and machine guns mounted on jeeps. It was also reported that several houses were destroyed and two mosques badly damaged in the attack, but that calm had returned after the police intervened. All the Muslims in Yelwa-Shendam were believed to have fled to the village of Kurgwi in the nearby Quaan Pan Local Government Area, for fear of further attacks. The attack allegedly followed the killing of almost 100 Christians in Yelwa in February 2004, including 48 massacred in a church, and brought the total death toll in three months of fighting in the region to at least 1,000.

175. On 26 October 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal to the Government regarding the situation of **Hajara Ibrahim**, aged 18, from Lere Local Government Area of Bauchi State, and **Daso Adamu**, aged 26, from Ningi Local Government Area. According to the information received, the two women were sentenced to death by stoning by Shariah courts in Bauchi State following trials that were considered as unfair by their legal representatives at the time. On 5 October 2004, Ms. Ibrahim was sentenced by a Shariah court in Tafawa Balewa after she reportedly confessed to having had sex outside marriage. According to the Shariah court judge, the sentence was subject to the approval of the Governor of Bauchi State. Ms. Ibrahim was seven months pregnant at the time of the communication, and her sentence was supposed to be carried out after she delivered her baby. The male co-accused was acquitted for lack of evidence. It was further reported that, with the help of a local NGO, Hajara Ibrahim appealed the sentence. Her appeal was scheduled for a hearing on 25 October 2004.

On 15 September 2004, Daso Adamu was given the same sentence by a Shariah court of Ningi area for having had extramarital relations. The male co-accused was acquitted for lack of evidence. She was detained in Ningi Prison with her 3-month-old daughter and released on bail following the intervention of a local NGO. She had appealed her sentence, and her case at the Upper Shariah Court of Ningi was adjourned till 3 November 2004.

176. On 27 October 2004, the Special Rapporteur sent a communication to the Government regarding information according to which, on 20 September 2004, more than a dozen Christians were reportedly killed and seven others kidnapped in a raid conducted in the towns of Bama and Gwoza by some 60 members of Al Sunna Wal Jamma, an Islamic group also known as the “Taliban”. The group also reportedly attacked police stations, killing four policemen. Reports indicated that the group had launched similar raids on towns and villages in neighbouring Yobe State in January 2004 but had then been defeated by the federal armed forces. At the time of the communication, inquiries into the whereabouts of the kidnapped Christians were reportedly ongoing.

Pakistan

Communications and replies received

177. On 14 June 2004, the Special Rapporteur transmitted a communication to the Government of Pakistan regarding **Diwan Hashmat Hayat**, who was reportedly attacked by a mob outside his house on 3 April 2004 because he asked a neighbouring mosque to make less noise. Despite his serious injuries, it was alleged that he was arrested and taken to Jhelum District Central Jail, Punjab, where he was beaten on the orders of the jail authorities. He was reportedly charged with blasphemy under section 295-C of the Pakistan Penal Code, which carries a death sentence for the offence of defiling the Prophet Mohammed.

178. In the same communication, the Special Rapporteur brought to the attention of the Government the case of **Javed Anjum**, a Christian youth, who reportedly died on 2 May 2004 after he was severely tortured by a teacher and students of an Islamic seminary at Chak No. 323/G.B district, Toba Tek Singh, Punjab. It was reported that on 17 April 2004, Javed Anjum was drinking water from a tap outside the seminary, when he was abducted and tortured severely for five days for allegedly stealing the water pump. He was reportedly handed over to the police on 22 April 2004 on a charge of robbery, but due to his critical physical condition he was taken to the hospital where he succumbed to his injuries. According to his deathbed statement, Javed Anjum was severely tortured when he refused to convert to Islam. Although the police had allegedly initially refused to register a case against the perpetrators, arrests were reportedly made on 5 May 2004. Meanwhile, it was alleged that the victim’s family was being pressured to withdraw the case.

179. By letter dated 25 June 2004, the Government of Pakistan informed the Special Rapporteur that the investigation into the case of Javed Anjum had reportedly revealed that Javed Anjum Masih was mentally retarded. On 17 April 2004, he and his family were visiting a relative in Toba Tek Singh. At Toba Tek

Singh bus stop, Javed entered Jamia Hassan Bin Murtaza madrasa, which is looked after by Maulvi Ghulam Rasaal, the imam of the madrasa. When Javed Anjum Masih stopped to drink water from a tap, some students in the madrasa and the imam erroneously took him for a tap thief and tortured him, resulting in 12 injuries, including a fatal blow to his kidney. Javed Masih was freed on 23 April 2004. His relatives took him from Taba Tek Singh railway gate in serious condition. He was then admitted in the Allied Hospital, Faisalabad, where he died on 2 May 2004. The police registered First Information Report No.109 against Maulvi Ghulam Rasaal and two unknown persons. At the time of the Government's response, Maulvi Ghulam Rasaal was held in police custody.

180. The Government indicated that the allegation regarding converting Javed Masih to Islam was false. Moreover, the claim of the deceased's family that would produce videotape showing the boy being coerced to accept Islam had not yet been produced before the police authorities. The Government requested the Special Rapporteur to drop further consideration of the case.

By letter dated 7 July 2004, the Government of Pakistan responded to the case concerning Deewan Hashmat Hayat and stated that, upon application of Mr. Hayat, case No.74/3 under section 436/440/147/149/380 PPC was registered on 11 July 2003 with the police station at Jalalpur Sharif, stating that at around 7.45 p.m. a delegation (*jirga*) of about 22 people went to Mr. Hayat's home. Present were Deewan Hashmat, his brother, Azmat Hayat, and one Raja Zulqurnain. A number of unknown persons remained outside Mr. Hayat's residence of. The *jirga* informed Mr. Hayat that he had built his residence on the village common community plot (*Shamlat-e-Deh*). The *jirga* requested that the property be demolished and threatened to burn it if their demand was not met. When Mr. Hashmat refused, the *jirga* used the public address system to call upon the village residents to gather outside Mr. Hashmat's residence in order to pull down the walls and to burn the property.

181. At about 10.30 p.m., a mob of people led by Asghar Jandran attacked the building and demolished the boundary walls. The mob took the valuables from the residence and doused everything with kerosene after piling the goods on the lawn. The fire totally destroyed the ceiling, windows and doors of the building. Furniture was also destroyed. The mob also smashed the windows of Mr. Hayat's car and removed his briefcase, which contained British and United States currency, as well as his passport and airline tickets. Mr. Hayat's companions fled the scene to save their lives. The case was registered by Muhammad Afzal, Sub-Inspector of Police, and Sub-Inspector Fazal Dad was investigating the case.

182. The Government further indicated that the police also registered case No. 75/03 on 12 July 2003 against Deewan Hashmat Hayat. Raja Zulqarnain, Muhammad Safdar and Jabir Zaheer, on the application of Hafiz Muneer Ahmed, son of Mohammad Khan, resident of Pindi Saidpur, under section 297/298/295-A1295-CI357/149/148/PPC. All the accused in this case disappeared, apart from Mohammad Safdar and Jabir Zaheer who were both arrested and detained in the judicial district jail, Jhelum. Deewan Hashmat Hayat and Raja Zulqarnain were prosecuted under section 87 ZF. Mr. Zulqarnain was granted interim bail, but was arrested after the cancellation of his bail on 3 April 2004.

183. It was reported that Deewan Hashmat, (proclaimed the offender in case No. 75/03), along with his three companions, namely Mohammad Safdar, Sanaullah, and Maqsood Anjum, alias Maqsood Ahmad, killed Mohammad Bashir Jandhran, resident of Pindi Saidpur, by using firearms on 3 April 2004 and managed to escape. Deewan Hashmat was arrested in a police encounter the same day along with his three accomplices.

184. Investigation had revealed that the property of Deewan Hashmat Hayat had in fact been destroyed by fire; however, neither Deewan Hashmat Hayat nor any of his relatives pursued the case and no evidence was presented to the investigating officer. Therefore, no suspect was apprehended. For unknown reasons, the eyewitness Azmat Hayat, the brother of Hashmat Hayat, did not attend the investigation despite repeated notices. Nine accused persons, namely Mazhar Hussain, Asghar Ali, Allah Ditta, Jamshaid Khan, Mohammad Akram, Wali Mohammad, Mohanunad Saddique, Mohammad Inyat and Shah Mohammad, presented themselves for investigation and pleaded not guilty. In support of their claim they presented respected witnesses from the area who submitted affidavits on behalf of the accused persons stating that they were not guilty. In the absence of any substantial evidence none of the accused was detained.

185. The blasphemous acts of Deewan Hashmat Hayat and his companions, the murder of Mohammad Bashir Jandran, the absence of any evidence against the accused under case No. 74/03 (destruction of property of Mr. Hashmat Hayat) and the failure of Mr. Hayat to follow up the case have resulted in unrest among the local population. The Government indicated that, in view of this tense situation, the arrest of the accused under case No. 74/03 had been temporarily suspended. The Government also informed the Special Rapporteur that if the complainant provided strong evidence against the accused persons, they would be arrested immediately and would be prosecuted in the light of the facts of the investigations.

186. On 27 October 2004, the Special Rapporteur sent a communication to the Government of Pakistan regarding **Nasir Masih**, a 26-year-old Christian, who was reportedly arrested on false charges of theft on 16 August 2004. He died three days later as a result of the torture he was subjected to while in police custody. According to the information received, Mr. Masih, from Sheikhpura, joined the celebrations for Pakistan's Independence Day on 15 August 2004. He was allegedly severely beaten by local Muslims who had him arrested by the police on false charges of theft. It was reported that he was beaten again at the Police Station B-Division, in Sheikhpura district. He was then transferred to Saddar police station, also in Sheikhpura district, where he was allegedly tortured until he lost consciousness. On the morning of 16 August 2004, he was reportedly transferred to the District Jail of Sheikhpura. He was given no treatment for his injuries and died in prison on 19 August 2004. It was alleged that 40 Christians who sought an investigation of the police involved in the case were brutally arrested.

187. On 11 November 2004, the Special Rapporteur transmitted a communication to the Government regarding Pastor **Wilson Fazal**, who was reportedly assaulted and abducted in Quetta on 16 May 2004 by men in a car while he was on his way to the Pakistan Gospel Assembly Church in Bashirabad. His abductors allegedly sat on either side of him and continuously hit his head with their fists while the man sitting

in front recited something in Arabic. Two hours later, upon arrival at what was believed to be a madrasa, the men reportedly shaved his head and moustache and called him a Kafir (infidel). They allegedly slapped him, asked him to abandon his activities and forced him to recite Islamic prayers. They then continued their journey until they reached a basement at night where the pastor was shown photographs of various buildings and pastors and asked whether he knew them and how much financial support he received from them and from other local pastors. They allegedly hit him with barbed wire rolled on a stick if he did not answer adequately. He was further interrogated on where he obtained his religious books and money, who he worked for and to whom he was reporting. The men finally took his wallet before taking him to the car on another journey. Pastor Fazal was reportedly pushed out of the car near Peshawar. He made his way to a hostel in Islamabad from where he was brought to Lahore on 19 May 2004.

188. Prior to his abduction, Pastor Fazal had allegedly received an anonymous letter instructing him to abandon his preaching and spreading of Christianity, or face dire consequences. Reports indicated that he had informed the Deputy Inspector General (DIG) and the Home Secretary about the letter. On 15 May 2004, he reportedly received another letter accusing him of blasphemy. He reportedly informed Aasia Nasir, an active member of the National Assembly, also Christian, as well as other pastors, and they went to the DIG and to the Home Secretary. He was then provided with police protection, which was allegedly inadequate.

189. The Special Rapporteur also brought to the Government's attention the case of Protestant pastor **Yousaf Masih**, aged 33, who was abducted while he was walking home on 12 September 2004. A man allegedly held a revolver to his side and threatened him with death before forcing him into a car with the help of an accomplice. His abductors allegedly indicated that they were taking revenge for the United States military presence in the country and ordered him to stop "praying for Muslims" in his Baptist church in Jacobabad. Pastor Masih was reportedly taken into a room where his head was shaved, and his shirt and trousers exchanged for traditional "shalvar kamiz" clothing. Something was then allegedly injected into his right arm that made him fall unconscious. He reportedly woke up in another room suspended by his legs from an iron girder, with his hands tied behind his back. He was reportedly severely beaten with long wooden sticks on his arms, back and legs and given drugs again. When he next regained consciousness, he was lying on the ground outside. Someone took him to the Bannu Christian Hospital where he was admitted shortly after midnight on 14 September 2004. According to a medical report issued by the hospital, the effects of the heavy beatings caused serious inflammation and damage to the pastor's leg tissues as well as an injury to his back. On 17 September 2004, Pastor Masih was transferred to his home in Jacobabad under police protection. Although local police allegedly resisted initial attempts to file a report on his disappearance, an official First Information Report was reportedly registered on 14 September 2004.

Follow-up to previously transmitted communication

190. By letter dated 5 August 2004, the Government of Pakistan replied to a letter sent by the Special Rapporteur on 11 April 2003 regarding the case of Anwar Kenneth Masih.

191. Mr. Masih was arrested under section 295-C of the Blasphemy Law. His case was processed in Lahore in the court of Additional Session Judge Sadaqat Ullah, who sentenced him to the death penalty and a fine. At the time of the Government's response, Mr. Masih was imprisoned in a Muslim jail and his appeal was pending in the Lahore High Court.

192. The Government indicated that, according to the investigation, Mr. Masih was accused of being a false prophet, which is an extremely offensive act for the Muslims who believe in the finality of the Prophet Muhammad, and extremely provocative in nature. Mr. Masih had reportedly made these claims in writing and they had been published in the newspapers of Pakistan.

193. The Government informed the Special Rapporteur that, during the legal proceedings against him, all requirements of justice had been fulfilled. He had been sentenced after due process of law and nothing in these actions had violated his human rights as enshrined in the Constitution of Pakistan and international human rights conventions. The Government thus indicated that it was not in a position to intervene in a matter that was sub judice as that would be equivalent to interfering in the process of law. The Government therefore considered the case as settled.

Observations

194. The Special Rapporteur is grateful for the details provided in the different responses from the Government.

Republic of Moldova

Communications and replies received

195. On 26 March 2004, the Special Rapporteur transmitted a communication to the Government of the Republic of Moldova in connection with information that the police had prohibited a Muslim community in Chisinau from meeting for worship after raiding the place where they meet after Friday prayers on 5 March 2004. The police allegedly detained several Muslims and three Syrian citizens were expelled from the country. Community leader Talgat Masaev and a colleague had been repeatedly fined for leading a community that does not have State registration, although the fines had been overturned so far. Registration of the Muslim community had allegedly been refused for the past four years.

Observations

196. The Special Rapporteur awaits a reply from the Government to her communication and further refers to the Human Rights Committee's concerns, expressed on the occasion of its most recent concluding observations on the Republic of Moldova (CCPR/CO/75/MDA), that "artificial hurdles continue to exist in the State party for individuals and organizations seeking to exercise their religious freedoms under article 18 of the [International] Covenant [on Civil and Political Rights]. The State party should ensure that its law and policy relating to the registration of religious

organizations fully respect the rights of persons within its jurisdiction to full and free expression of their religious beliefs, as required by article 18”.

Russian Federation

Communications and replies received

197. On 16 March 2004, the Special Rapporteur sent a communication to the Government of the Russian Federation in relation to information according to which, on 1 December 2003, a district court in Kazan, the capital of Tatarstan, rejected an appeal by Baptist missionary Takhir Talipov for a residency permit. In its ruling, the court allegedly stated that the work of Mr. Talipov was “extremist” and liable to threaten the stability of the Republic.

198. It was further reported that the Kwan Lim (Kvanrim) Methodist Church in northern Moscow could lose its church building after the Moscow city justice department allowed persons who were not members of the congregation to transfer the ownership of the building without the Church’s knowledge. On 23 December 2003, Pastor **Kim-Jun-Kuy**, his family and other Church officials were forcibly evicted from the church. The Moscow justice department had reportedly accepted documents with a false stamp, which were subsequently used to create a “Kwan Lim” company, to transfer ownership of the church building to that company and then sell it on to another commercial firm at a fraction of its market price, all without the Church’s knowledge.

199. By letter dated 30 June 2004 the Government of the Russian Federation responded that Takhir Reshatovich Talipov, born in 1954, a resident of Riga, Latvia, was a teacher in the Eurasian missionary school, part of the religious organization “Faith Evangelical Christian Society”. He lived in Kazan, Tatarstan, with his wife and children at 53 Chistopolskaya Street, flat No. 16, without having officially registered. The Tatarstan Ministry of Internal Affairs Passport and Visa Service refused to authorize an extension of his stay in Tatarstan, in application of article 9, paragraphs 1, 4 and 8, of the federal law on the legal status of foreign citizens in the Russian Federation. T.R. Talipov appealed the decision to the Vakhitovsky district court in the city of Kazan, the Supreme Court of Tatarstan and, in January 2004, the Supreme Court of the Russian Federation. All his appeals were rejected. On 1 December 2003, T.R. Talipov left for Latvia.

200. Concerning the situation involving the “Kvanrim” Moscow United Methodist Church, on 23 May 2002, the Principal Administration of the Ministry of Justice of the Russian Federation for the City of Moscow registered amendments to the statutes of the religious organization “Kvanrim” Moscow United Methodist Church, as well as changes in its leadership.

201. In 2002, the investigations department in the Moscow City Northern Administrative Area Internal Affairs Administration, part of the Principal Internal Affairs Administration of the Ministry of Internal Affairs of the Russian Federation, instituted criminal proceedings under article 159, part 3 (large-scale fraud), which relate to the property of the religious organization in question. On 16 October 2003,

the religious organization "Kvanrim" Moscow United Methodist Church applied to the Presnya district court in Moscow, arguing that protocol No. 6 of the general assembly, according to which decisions were taken to amend the statutes of the organization and to change its leadership, was void, and that licence No. 1139 dated 23 May 2002 and the amended statutes of the organization were invalid. On 23 March 2004, the Presnya district court granted the religious organization's application. Evidence provided by specialists showed that the documents submitted for the purposes of State registration contained forged signatures and stamps.

202. On 26 March 2004, the Special Rapporteur transmitted a communication regarding two congregations on Russia's Pacific coast - the Grace Pentecostal Church and the Orthodox Parish of the Annunciation – which could lose their places of worship after the Sovetskaya Gavan city council abruptly cancelled a contract it had made for the use of a State-owned building. The contract was allegedly cancelled after the town elected a new mayor, Valeri Shevchuk. Officials had reportedly hinted to Church members that under a new "commercial" agreement the rent for their building would be so high that they would give it up of their own accord.

203. On 27 October 2004, the Special Rapporteur sent a communication in connection with information according to which on 20 August 2004, law enforcement personnel wearing camouflage, helmets, gas masks and machine guns cordoned off a rented field in Lyubuchany where 70 Baptists were erecting a tent in preparation for a two-day religious meeting. After the Baptists had refused to give advance notification of the event, about 200 law enforcement personnel arrived in the village. Reports indicated that access to the field was blocked when 4,000 Baptists arrived from all over Central European Russia for the gathering on the morning of 21 August 2004. **Vasili Ryzhuk**, a local resident arrested several times for his beliefs, was reportedly arrested and taken to a nearby police station as he started to pray. He was released when Mr. Ryzhuk, who suffers from a heart condition, began to feel ill. According to the information received, the whole operation was conducted in accordance with a local instruction dated 20 August entitled "On Measures to Prevent Events of a Religious Nature Taking Place in Lyubuchany Village", which prohibited "unsanctioned events of a religious nature" in the village during the period from 20 to 31 August 2004. On 13 September 2004, the Lyubuchany Baptist community prayer house was reportedly destroyed by fire in unexplained circumstances.

204. On 24 July 2004, the second day of their annual congress of the Urals region, more than 5,000 Jehovah's Witnesses were reportedly forced to leave the Yekaterinburg city stadium, which they had rented for the event. Reports indicated that the religious organization had held a congress at that venue every year since 1996. However, it was alleged that the Jehovah's Witnesses had been experiencing problems from the first day of the 2004 event. According to the information received, the assistant director of the stadium suddenly claimed that the rental fee of 100,000 roubles, which had already been paid in full, had not been authorized and did not reflect the stadium's actual expenses for staging the event. The Jehovah's Witnesses refused to pay a further 400,000 roubles, arguing that they had concluded a valid legal contract for the original sum with the stadium's director on 1 June 2004. In response, the assistant director allegedly threatened to halt the congress and, when delegates arrived on Saturday morning, access to the stadium was reportedly blocked by 10 young men claiming to be private security guards. However, as these men had neither

uniform nor authorized documentation, the delegates entered the stadium. The electricity had been switched off and the power supply room locked, but the Jehovah's Witnesses continued the congress with a portable generator. It was further alleged that, on the Saturday morning, the 1,000 delegates were evicted from their accommodation. Finally, on the afternoon of the 24 July 2004, the stadium administration played loud music to disrupt the congress and then, with the help of security guards, forced the delegates to disperse. After a brief meeting, a committee of Jehovah's Witness leaders decided to cancel the congress in order to avoid further trouble.

Observations

205. The Special Rapporteur is grateful to the Government of the Russian Federation for its detailed replies. She takes this opportunity to remind the Government that there has been a long-standing request from the mandate, including her last letter of 31 August 2004, for an invitation to visit the country.

Saudi Arabia

Communications and replies received

206. On 14 June 2004, the Special Rapporteur sent a communication to the Government of Saudi Arabia regarding the situation of **Brian Savio O'Connor**, a Catholic citizen of India, who was reportedly arrested in Riyadh on 25 March 2004 because of his faith. Officially accused of using drugs and praying to Jesus Christ, Mr. O'Connor was allegedly arrested by the Mutawa, the Saudi religious police, and taken to the Ali Hira prison in Riyadh, where he was threatened with death if he did not convert to Islam. During his detention, Mr. O'Connor was also reportedly subjected to torture. At the time of the communication, it was reported that he was detained in the Olaya prison.

By letter dated 12 August 2004, the Government of Saudi Arabia expressed its astonishment at this unsubstantiated and exaggerated allegation, which was reportedly first published in an official Vatican newspaper on 2 June 2004 and subsequently referred to the Office of the High Commissioner in spite of its inadmissibility as a concrete and credible complaint. The Government indicated that it was evident that this allegation was totally unrealistic as no person living in Saudi Arabia had ever been subjected to duress with a view to inducing him to change his religion. However, it was not unprecedented for a foreign worker in the Kingdom to attempt to evade punishment for a criminal offence by falsely claiming to have been victimized, prosecuted and discriminated against on account of his religious belief.

207. By letter dated 14 December 2004, the Government provided the Special Rapporteur with additional information on the case of Brian Savio O'Connor. Mr. O'Connor had been apprehended in flagrante delicto while selling alcoholic beverages and was also found to have sold pornographic video tapes, some of which were found in his possession. These not only constitute criminal acts under the provisions of the Islamic Shari'a, but are also violations of the Residence Regulations applicable in the Kingdom of Saudi Arabia. He was therefore referred to the courts for determination of the appropriate legal penalty, following the enforcement of which he would be

expelled from the Kingdom in accordance with articles 18 and 33 of the Residence Regulations. According to the Government, the allegation that he was detained on the grounds of his religious beliefs was merely an attempt to mislead international human rights bodies and influence the proceedings of his trial on the said charges. The Government further indicated that the Kingdom was currently hosting 4-5 million expatriate workers of various nationalities and religions who enjoy all the rights guaranteed to them under the Kingdom's laws and regulations, the aim of which is, *inter alia*, to safeguard and protect human rights within its territory.

208. On 10 November 2004, the Special Rapporteur transmitted a communication to the Government regarding information received according to which on 29 September 2004, **Khalid Ahmed Al-Eleq**, a Shi'ah religious cleric usually resident in Tarut, Turkia, Eastern Province, returned to Saudi Arabia from a period of religious studies at Islamic seminaries in Qum, Islamic Republic of Iran. Upon his arrival at King Fahd International Airport in Dammam, on a flight from Teheran, he was arrested by officials of the General Directorate of Investigation (Mabahith), a branch of the Saudi Ministry of the Interior. The officials did not show any arrest warrant or other relevant decision by a public authority, nor did they orally inform Khalid Ahmed Al-Eleq about the reasons for his arrest. At the time of the communication, he was detained at the Mabahith headquarters in Dammam and no information on the reasons for the arrest or the charges preferred against him had been released. His family had been allowed to visit him twice. According to the information received, the detention was motivated by the Saudi authorities' determination to repress the teaching and learning of Shi'ah religious studies, as also evidenced by the ban on the establishment of learning centres for that purpose. In this respect, it was alleged that it was a widespread practice of the Saudi authorities to arrest Saudi citizens who were Shi'ah Muslims returning from religious studies in Iran, to detain them without charges for long periods and to subject them to ill-treatment while in detention. This practice allegedly persisted, notwithstanding the lifting of the ban on travelling to Iran in 2001.

Observations

209. The Special Rapporteur would like to thank the Government of Saudi Arabia for its replies and awaits a response to her communication of 10 November 2004. She would also like to mention that her concerns have been equally expressed by the Committee on the Elimination of Racial Discrimination in its most recent concluding observations on Saudi Arabia (CERD/C/62/CO/8) in which it referred to "reports that persons of some racial or ethnic origins are unable to manifest their religious beliefs in the State party".

Serbia and Montenegro

Communications and replies received

210. On 27 October 2004, the Special Rapporteur sent a communication to the Government of Serbia and Montenegro in relation to information received according to which members of many religious communities were affected by a draft bill on religious freedom, churches, religious communities and religious associations that would reportedly give full rights to only seven "traditional" religious communities, leaving other religious communities with lesser rights. It was alleged that all the

religious communities recognized by this bill were essentially mono-ethnic and that the bill therefore discriminated against “multi-ethnic” religious communities and would thus be unconstitutional. The Serbian Orthodox Church was given the status of *primus inter pares* (first among equals). The remaining recognized faith communities were the Catholic Church, the Islamic faith community, the Jewish religious community, the Slovak Lutheran and Hungarian/German Lutheran Churches, and the Hungarian Reformed Church. Reports indicated that the draft bill gave clergy of these Churches and religious communities substantial rights in terms of social security, pensions, salary support for communities in remote areas, access to local communities' building funds, rights to perform marriages and burials and to maintain marriage registers. Moreover, the status of a “traditional” faith was given to those communities recognized by parliament in the Kingdom of Yugoslavia (1918-1941). However, although some other minor Churches such as the Baptists and the Mennonites were reportedly recognized at that time, they were not given the status of a “traditional” faith in the draft bill. It was further alleged that article 17 of the bill would grant to clergy of these “traditional” communities the same immunity as enjoyed by parliamentary deputies and judges.

Follow-up to previously transmitted communication

211. By letter dated 12 January 2004, the Government of Serbia and Montenegro provided the following initial information in response to a letter sent by the Special Rapporteur on 7 October 2003 concerning an alleged case of religious intolerance during a concert hosted by the Pentecostal Church in Vrdnik on 8 August 2003.

212. The information that the Ministry for Human and Minority Rights received from the police station in Irig indicated that the Pentecostal Church had indeed hosted a concert in Vrdnik on 8 August 2003. The concert had been duly notified to the police and recorded under reference No. 212-2114. At about 11.15 pm, Dragan Radovanovic, a resident of Nova Kolonija 3/34, Vrdnik, called the Irig police station to report that he had heard an explosion near the site where the concert was being held. Police officers who came to the scene found a device, bearing the markings 93 RGM-70, thought to have caused the blast. In their report, they said that the device was a false grenade. On 11 November 2003, the investigating officers sent all the documents related to this incident to the State Prosecutor's Office in Ruma, reference No. PU-146/03, where it was entered under KTH-81/03 in the relevant records. The Government finally informed the Special Rapporteur that the Ministry for Human and Minority Rights had requested the Ruma Municipality State Prosecutor's Office to provide complete documentation on the incident. Any additional information, in particular those relating to further steps taken in connection with the case, would be communicated to the Special Rapporteur subsequently.

Observations

213. The Special Rapporteur is grateful for the details provided in the reply of the Government and would like to reiterate the observation of the Human Rights Committee in its concluding observations of 28 July 2004 (CCPR/CO/81/SEMO) that Serbia and Montenegro “should ensure that all members of ethnic, religious and linguistic minorities, whether or not their communities are recognized as national

minorities, enjoy effective protection against discrimination and are able to enjoy their own culture, to practise and profess their own religion, and use their own language, in accordance with article 27 of the Covenant”.

Slovenia

Follow-up to previously transmitted communication

214. By letter dated 15 December 2003, the Government of Slovenia transmitted a response to a communication sent by the Special Rapporteur on 13 October 2003 regarding complaints concerning the new law on religious communities and the building of a mosque in Ljubljana.

215. Regarding the complaints and concerns expressed by the minority religious communities because the Office for Religious Communities had chosen Dr. Lovro Sturm as head of the expert team tasked with preparing an initial draft of a new law on religious communities, the Government informed the Special Rapporteur that, according to the statement of the governmental Office for Religious Communities, which is responsible for the law in question, the head of the expert team had been chosen in a procedure for awarding small public contracts, in compliance with the legislation of the Republic of Slovenia. The Institute for Human Rights Law, of which Dr. Sturm is the director, had submitted the lowest bid. In accordance with the Constitution and relevant international conventions, every person in Slovenia is guaranteed equal human rights and fundamental freedoms, irrespective of national origin, race, sex, language, religion, etc. The Government therefore expressed its belief that the decision as to whether a bid is appropriate or inappropriate may not be based on the religion of the bidder, since that would be inadmissible and discriminatory and would violate the Constitution as well as the relevant international instruments.

216. The Government indicated that the draft law on religious communities, which would be decided upon by the National Assembly, would ultimately be formulated by the Government which was not obliged to accept the initial draft as formulated by Dr. Sturm. After the draft law was formulated and submitted to the National Assembly, the Government would take the responsibility for its compliance with the Constitution and international conventions binding on the Republic of Slovenia (particularly for the respect for the constitutional principles of the separation of Church and State, the equality of religious communities and their freedom to pursue their activities). It was thus clear that Dr. Sturm would not be responsible for the draft law on religious communities, but only for formulating the legal arguments that would provide the basis of the draft law.

217. Regarding the complaints of the Islamic community, who believed their freedom of religion was curtailed, the Government responded that, in accordance with the provisions of the Constitution and the obligations arising from ratified international instruments, it recognizes the right of any religious community to act freely and supports their endeavours to acquire appropriate facilities for practicing and professing their beliefs.

218. The Government further indicated that article 7 of the Constitution stipulates that religious communities in the Republic of Slovenia enjoy equal rights and that they may pursue their activities freely. Article 14 of the Constitution stipulates that everyone is guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other conviction, material status, birth, education, social status or any other personal circumstance. The Constitution also specifies that religious and other beliefs may be freely professed in private and public life, and that no one is obliged to declare his/her religious or other beliefs. Parents have the right to provide their children with a religious and moral upbringing in accordance with their beliefs. The religious and moral guidance given to children must be appropriate to their age and maturity, and be consistent with their free conscience and religious and other beliefs or convictions (article 41 of the Constitution).

219. As regards the complaints about the construction of an Islamic centre or a mosque, the Office for Religious Communities of the Republic of Slovenia expressed its support for the right of the Islamic community to appropriate religious facilities in letters addressed to the Human Rights Ombudsman and to the Municipality of Ljubljana. The implementation of this right, however, depends on numerous factors. The basic factor, which falls within the jurisdiction of the local community, is the possibility of obtaining a building plot. The City Council of the Municipality of Ljubljana adopted the appropriate land-use planning document on 8 December 2003.

Sri Lanka

220. On 14 June 2004, the Special Rapporteur sent a communication to the Government of Sri Lanka regarding a draft "Bill on the Prohibition of Forcible Conversion", which was presented by Buddhist monks of the Jathika Hela Uramaya (JHU) party. The draft bill was allegedly presented to protect and foster Buddhism in Sri Lanka. While some organizations reportedly challenged the bill in the Supreme Court within the required period of seven days, it was feared that they might not obtain satisfaction given the recent trend taken by the Court in favour of Buddhism.

221. By letter dated 25 June 2004, the Government of Sri Lanka responded that members of Parliament of the JHU had presented a Private Members Bill on religious conversions, and that it was the prerogative of any member of Parliament to do so.

222. The Government also indicated that there had been several Private Members Bills seeking to incorporate organizations with the purpose of propagating a religion combined with administering social and economic assistance to the community. These bills had been successfully challenged in the Supreme Court in three instances. The facts of all three cases were similar. Each case related to the promotion of a particular faith as well as to the provision of education, job training and social welfare services. The purpose of incorporation was to have the power to raise money and engage in normal commercial activities. The petitioners who challenged the bills argued that if Parliament were to statutorily incorporate the organizations of a particular denomination and also vest in them the right to engage in economic activities, it could lead to conversions of persons to that religious denomination through allurement or subtle means. It was contended that that would be an infringement of the freedom of thought, conscience and religion guaranteed

under article 10 of the Constitution. In a recent case, the petitioner also relied on article 9 of the Constitution which requires the Republic of Sri Lanka to give the foremost place to Buddhism.

223. The Supreme Court, after examining the provisions of the bill, decided that “the kind of activities projected in the Bill would necessarily result in imposing unnecessary and improper pressures on people who are distressed and in need, [on] their free exercise of thought, conscience and religion [and on] the freedom to have or to adopt a religion or belief of [their] choice as provided in Article 10 of the Constitution”. The Supreme Court supported the contention of the petitioner that an organization established to propagate Christianity by providing material and other benefits, thereby converting such recipients to the said religion, would affect the very existence of Buddhism and breach article 9 of the Constitution. The Court, considering the terms set out in clause 3 of the bill, held that such a clause would be inconsistent with articles 9 and 10 of the Constitution. Therefore, the bill required approval by a two-thirds majority of Parliament and a referendum. Concerns have been expressed that this part of the judgment, which referred to article 9 of the Constitution, would give those who promote Buddhism an unfair advantage over those who seek to promote other religions. However, it was submitted that if a person sought to incorporate a Buddhist organization that offered social or economic benefits along with religious instruction, it might also be struck down in the same fashion as the bills seeking to incorporate a Christian organization because article 9 operates subject to the rights of all religions under article 10 and article 14(1)(e), which guarantee freedom of religious worship. Article 9 only prescribes a duty for the State to foster Buddhism and thereby give expression to the historic and the cultural ethos and aspirations of Sri Lanka, without prejudice to any other religion or belief.

Follow-up to previously transmitted communications

224. By letter dated 16 December 2003, the Government transmitted its response to a communication sent by the Special Rapporteur on 10 October 2003, which contained the same information as previously transmitted.

Observations

225. The Special Rapporteur would like to express her gratitude for the details provided in the responses of the Government.

Sudan

Communications and replies received

226. On 14 June 2004, the Special Rapporteur sent a communication to the Government of the Sudan in relation to information received according to which on 20 May 2004, the Khartoum police forcibly evicted the Episcopal Church in Sudan (ECS) from its provincial headquarters in Khartoum, producing an Islamic court order stating that the property had been sold. It was reported that with armed riot police stationed at the gate, the personnel of the ECS Guesthouse were ordered to evacuate

the building immediately, together with their movable possessions. If they failed to comply, the police allegedly warned that force would be used.

Thailand

Communications and replies received

227. On 14 June 2004, the Special Rapporteur sent a communication to the Government of Thailand regarding a Chinese Buddhist shrine in the province of Pattani which was reportedly vandalized on 31 May 2004 in ongoing strife in southern Thailand, where Muslims are in the majority, following the alleged beheading of a Buddhist farmer on 29 May 2004 in Narathiwat province, who was found with a note threatening to target more “innocent Buddhists”. The Lim Ko Nhieo shrine is next to the historic Kru Sae mosque, where security forces allegedly killed 32 suspected militants during clashes on 28 April 2004. It was reported that at least 200 people had been killed, including about 100 civilians and civil servants, in scores of random attacks since violence broke out in early January 2004.

228. By letter dated 6 July 2004, the Government recalled that it had on earlier occasions already provided facts and clarifications with regard to that situation to the Special Rapporteur on extrajudicial, summary or arbitrary executions and to Mr. Bertrand Ramcharan, then Acting High Commissioner for Human Rights, who had also expressed similar concerns.

229. In that connection, the Government wished to reiterate that the recent spate of incidents and escalating violence, which resulted in the death and injury of hundreds of innocent civilians of both Muslim and Buddhist religions, were attempts by those who aimed to destroy the peaceful coexistence of the groups in the three southern provinces of Pattani, Yala, and Narathiwat. The situation involved several groups with vested interests such as illegal trading, human trafficking, drugs and weapons smuggling, as well as local politics and deliberate attempts to distort the Koran to undermine the social and religious harmony and create instability.

230. The Government indicated that it does not have a discriminatory policy against any religion. Every citizen, regardless of his or her religion or faith, is entitled to equal rights and protection under the law. All efforts had been undertaken to peacefully address the situation in the region and to prosecute those who caused the injuries or fatalities as well as damage to the lives and properties of innocent persons, including in the two tragic cases raised by the Special Rapporteur. The Thai Government assured the Special Rapporteur that all suspects and criminals would be given equal treatment and fairly judged under the law.

231. The Government further stated that, recognizing the importance of addressing the root causes of the situation, it had adopted both short- and long-term measures by taking a three-pronged approach. Firstly, it focused on promptly promoting safety and security to ensure normal living conditions in the communities while putting an end to violence. Secondly, measures addressing educational, religious and cultural factors would be strengthened as they were believed to be essential for the revitalization of interreligious and intercultural understanding among the people. Thirdly, economic and social

programmes had been gradually implemented to address social and human resources development and reflect the actual needs of the local people.

232. Emphasizing the importance of cooperation with countries friendly to Thailand in this regard, the Government underlined that it had been pursuing all possible means of restoring peace and stability for the benefit of the entire nation while strictly upholding its human rights commitments, including the right to freedom of religion and belief.

233. On 1 November 2004, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, sent a communication to the Government of Thailand concerning the deaths of **87 persons** following actions taken by Thai security forces on 25 October 2004 in Takbai, in the province of Narathiwat. According to the information received, on the morning of 25 October 2004, during a clash between 2,000 Muslim protesters and security forces in the Takbai district, nine people were killed by police officers. The protest occurred to demand the release of six detained Muslim security guards. Demonstrators allegedly threw stones at security forces and attempted to storm a police station. It was reported that police officers, after using water cannons and tear gas, fired among the protesters, killing six of them. Authorities claimed that protesters were armed and that orders were given to fire in the air but failed to be respected. It was further alleged that three other protesters died during these events.

234. The Special Rapporteurs had also received information concerning the death of **78 people** in police custody. It was reported that 1,300 people were arrested following the above-mentioned protest and put into military trucks to be transferred to detention centres. Seventy-eight of those prisoners died, most of them of suffocation or dehydration during transportation that allegedly lasted five hours.

235. By letter dated 4 November 2004, the Government transmitted to the Special Rapporteurs preliminary information and clarifications. The Government first indicated that the unfortunate incident on 25 October 2004 was in no way deliberate. The Government viewed the deaths as most tragic and expressed regret that errors and misjudgement had been made. On 2 November 2004, the Prime Minister, Thaksin Shinawatra, appointed an independent commission to investigate the incident. The commission was asked to transmit the results of the investigation to the Prime Minister within 34 days. The commission was headed by Mr. Pichet Soontornpipit, Former Ombudsman, and comprised people of high standing and respect, with a number of Muslim academicians and also the President of the Central Committee of Thailand's Muslim community.

236. The Government stressed that the incident should be viewed in a broader context of the developments in the southern provinces of Thailand since January 2004. As of 21 October 2004, over 264 persons, both Muslim and Buddhist, had died, while 397 people had been injured. The Government had exercised relentless efforts to restore peace and order to the provinces. The Government was unwaveringly committed to continue resolving the situation in a peaceful manner, while steadfastly adhering to the principle of human rights as enshrined in the Constitution and in accordance with its international obligations. The Government

further informed the Special Rapporteurs that, as of 30 October 2004, 1,109 detainees had been released, while 189 were still detained for further investigation.

237. Finally, the Government noted that the incident on 25 October 2004 was not a matter involving religion and that Thailand had always been a peace-loving society. The Government reaffirmed that it was ready to be scrutinized by the public, that it had come to power through a democratic process and had the interests of its people, regardless of their ethnicity or religion, at heart.

238. By letter dated 18 January 2005, the Government transmitted a copy of the summary of the findings and recommendations of the above-mentioned independent commission. The Government indicated that the commission had undertaken a thorough study of the incident and the report not only shed light on the confusion surrounding the incident, but also provided practical recommendations for future actions as well as remedial measures for the victims of the incidents and their relatives. The Government further informed the Special Rapporteurs that, since the incident, it had adopted a number of social and economic measures to ease the tension in the southern provinces to enable the people to live in safety and dignity. The situation still remained a matter of great concern and government officials as well as innocent citizens still continued to be victims of daily assaults, bombing attempts and attacks by those with ill intentions.

239. By letter dated 31 January 2005, the Government informed the Special Rapporteurs of developments following the publication of the findings of the commission. On 28 December 2004, the Cabinet considered the commission's report and instructed the agencies concerned to take measures based on the findings as follows:

1. In the opinion of the commission, at least three high-ranking military officers had a part in the failure to properly discharge the assigned functions and duties. The Ministry of Defence is therefore tasked with commencing the military disciplinary process on the basis of the findings of the commission.
2. The competent police authorities shall investigate the incident under the provisions of the Criminal Procedure Code so as to bring to justice all those found to be responsible under the law through due process. Where wrongdoers serve in the military and are under the jurisdiction of the Military Court, the Military Penal Code and the Statute of the Military Court shall apply.
3. A commission shall be established to provide assistance and remedies for any damage caused in the incident based on the findings of the commission. Any assistance or remedies shall be extended, as necessary, to the relatives of those who died, were injured, or are still missing, and for property and belongings damaged or lost and for other types of damages caused by the incident. Such assistance and remedies shall be treated as exceptional and as being apart from assistance and remedies rendered in other types of situations.
4. The Royal Thai Army, the Royal Thai Police, the Ministry of the Interior and the Ministry of Justice shall jointly undertake a study of the report of the commission on the Krue Se incident as well as that of the commission

on the Tak Bai incident, and shall promptly submit their recommendations to the Prime Minister and the Cabinet on systemic measures and administrative approaches to manage similar situations should they recur. The study shall address, inter alia, the issues of how to prevent such situations as well as the required procedures, including legal and law enforcement problems. It should also address the question of the inadequacy or unavailability of equipment and facilities that are needed, and should submit recommendations on their procurement. Recommendations are also to be made on regulatory measures on prevention.

Observations

240. The Special Rapporteur is grateful for the details provided in the responses sent by the Government.

The former Yugoslav Republic of Macedonia

241. On 15 March 2004, the Special Rapporteur sent a communication to the Government of the former Yugoslav Republic of Macedonia in relation to information according to which on 11 January 2004, police interrupted a church service in Bitola and arrested Archbishop Jovan (Vraniskovski) of the Serbian Orthodox Church, four monks, seven nuns, and a theology student from Bulgaria. Archbishop Jovan had been previously arrested on 20 July 2003 for attempting to perform a baptism in a Macedonian Orthodox Church. The arrests reportedly took place in the apartment of Archbishop Jovan's father, where the service was taking place. The apartment had been turned into a small chapel with the name 'The Ascension of the Lord'. All those arrested were allegedly held in custody for 24 hours. After his release, Archbishop Jovan was reportedly re-arrested and sentenced to 30 days' "investigative detention" and the Bulgarian student was deported and banned from entering the country for two years. Archbishop Jovan has reportedly been charged with "dissemination of national, racial and religious hatred, disorder and segregation". The monks and nuns arrested would allegedly be charged with "disturbance of public peace and order".

Follow-up to previously transmitted communication

242. By letter dated 26 January 2004, the Government of the former Yugoslav Republic of Macedonia replied to a communication sent by the Special Rapporteur on 13 October 2003 related to a question similar to that raised in the communication dated 15 March 2004.

243. The Government first emphasized that freedom of religion and belief is guaranteed in the Constitution of the Republic of Macedonia. Article 19 of the Constitution guarantees the right to express one's faith freely and publicly, individually or in community with others. All religious communities are equal, i.e. have equivalent legal status. Religious communities and religious groups are separate from the State and are equal before the law. Freedom of religion is elaborated in greater detail in the Law on Religious Communities and Religious Groups of 1997, which regulates issues in the field of the legal status and work of religious communities and religious groups. Upon the initiative of certain religious groups and of the Helsinki

Committee for Human Rights of the Republic of Macedonia, in 1998 and in 1999 the Constitutional Court abolished several articles of the Law which regulated issues related to the status, conditions for registration and activities of religious communities and religious groups. Currently, there are initiatives for the adoption of a new law for the regulation of religious freedoms and the rights of the citizens of Macedonia.

Following a brief presentation of the history of the country with regard to freedom of religion or belief, the Government provided information on the current situation. In 2002, there were intensive talks between the Serbian and the Macedonian Orthodox Churches, as well as with other Orthodox Churches, for the recognition of the Macedonian Orthodox Church. The Universal Patriarch recommended that the Macedonian Orthodox Church negotiate with the Serbian Orthodox Church. In this context, several meetings were held and the result was the Nis Agreement, signed by the three bishops of the Macedonian Orthodox Church (Jovan, Petar and Naum) which, according to them, did not constitute an agreement but a basis for further negotiations. This agreement, in which the Macedonian Orthodox Church is referred to as the Ohrid Archdiocese, is accepted neither by the Macedonian Orthodox Church nor by its followers and has caused great dissatisfaction, being seen as damaging for the Macedonian Orthodox Church and for the Macedonian people. Ever since, the relations between the two Orthodox Churches have been very strained. The Holy Hierarch Synod of the Macedonian Orthodox Church and the Commission for Relations with Religious Communities and Groups recommended continuation of the talks but under the condition that the name of the Macedonian Orthodox Church and its autocephalous status would not be subject to negotiation.

244. In 2003, immediately after the publication of the Nis Agreement, the Serbian Orthodox Church made a series of appointments that were seen as interference in the internal affairs of the Macedonian Orthodox Church and thereby of the State as well. These acts of the Serbian Orthodox Church constituted in fact the establishment of a parallel Church, called the "Ohrid Archdiocese", as well as a negation of the Macedonian Orthodox Church. This is an issue which deeply affects the religious sentiments of the majority of the population in the Republic of Macedonia more than 66 per cent of whom, according to the census data, are Orthodox.

245. The Serbian Orthodox Church undertook these activities immediately after the meeting of the Prime Minister of the Republic of Macedonia with the Russian Patriarch Alexis II when he put forward the proposal for mediation in the year-long dispute between the Serbian Orthodox Church and the Macedonian Orthodox Church.

246. With regard to the case of Zoran Vraniskovski, born in 1966 in Bitola, the Government recalled that had been appointed Metropolitan of the Macedonian Orthodox Church in 1998 and deposed in July 2003, and he joined the Serbian Orthodox Church in September 2002. Despite the canonical basis for his removal, which included slapping a priest during a service and embezzling a large sum of money, he was given a long period for "repentance" before finally being deposed.

247. The Government indicated that Mr. Vraniskovski, especially after he joined the Serbian Orthodox Church and was appointed Exarch for Macedonia, by continuing to work on the territory of the Republic of Macedonia, violates the applicable Law on

Religious Communities and Religious Groups, not only as a representative of a religious community which is not legally registered on the territory of the State, but also in organizing religious services in facilities that are not intended for that purpose, i.e. in a private apartment, by which he caused the dissatisfaction of citizens and offended their religious sentiments. According to article 6 of the Law on Religious Communities and Religious Groups: “religious gatherings, religious ceremonies, religious printed media and religious instruction and other types of expression of the faith may not be used for political purposes, for instigation of religious, national or other intolerance or for other purposes prohibited by law.”

248. According to article 8, paragraph 2, of the Law, “Only one religious community may be established for one faith.” Article 18 provides that, “Religious ceremonies and religious activities referred to in paragraph 1 of this Article may not violate the public peace and order and the religious freedoms and rights of citizens who do not belong to the religious community i.e. religious group.” According to the Criminal Code of the Republic of Macedonia, as well as the laws regulating misdemeanours, priests are not exempt from liability, i.e. they are treated like all other citizens of the Republic of Macedonia if they commit a crime.

249. The Internal Affairs Department of Bitola submitted request No. 4416/03, dated 20 July 2003, to the Bitola First Instance Court for the institution of misdemeanour charges against and the detention of Zoran Vraniskovski for the misdemeanours under the relevant articles of the Law against Violations of Public Peace and Order. The request for the institution of misdemeanour charges also concerned four other persons. The Bitola First Instance Court heard the suspects and the proposed witnesses after which, in decision PRK No. 4703 dated 21 July 2003, the court decided to institute misdemeanour charges on the reasonable suspicion that on 20 July 2003 at 9 p.m., Zoran Vraniskovski went to St. Dimitrija Church in Bitola accompanied by his relatives to perform a religious ceremony - baptizing his nephew. After being told by the priest, Dirna Tanevski, that he could not perform religious ceremonies since he was no longer a priest, Vraniskovski and his relatives began to shout and display improper behaviour, violating the public peace and order, by which they committed an offence under article 4 of the Law against Violations of the Public Peace and Order. Employees of the Konzul security agency were called and since Vraniskovski refused to leave the church, police intervention was requested. Police officers immediately arrived and were prevented from performing their duties by Vraniskovski and the other persons who pushed them and refused to obey their order to leave the premises. At the Bitola Internal Affairs Department they offended and insulted the officers, by which they committed an offence under article 15, paragraphs 1,2 and 4, and article 16 of the Law against Violations of the Public Peace and Order. Vraniskovski, two persons from Bitola and two persons from Stii were detained at the Bitola Internal Affairs Department, while after the complete documentation of the case, misdemeanour charges were instituted. Zoran Vraniskovski was ordered detained for five days, starting on 20 July 2003 at 7 p.m. for purposes, as the court explained, of securing the presence of the suspect in the course of the procedure and its successful completion. In this respect, the Government underlined the fact that the penal provisions of the Macedonian legislation do not envisage the measure of solitary confinement that is mentioned in the letter of the

Special Rapporteur as being prescribed for Vraniskovski and therefore it was not possible to impose such a measure.

250. Furthermore, in another case dated 11 January 2004, a citizen called the Bitola Internal Affairs Department reporting that in Vraniskovski's apartment in Bitola, Vraniskovski and about 30 priests and their followers performed religious services, violating the peace of the neighbours. A written complaint was submitted by 17 citizens living in the same block of flats, stating that Vraniskovski on several occasions performed religious ceremonies in the apartment.

251. After these complaints, and upon an order of the Investigating Judge of the Bitola First Instance Court, authorized officers of the Bitola Internal Affairs Department checked the identity of the persons in the apartment and searched it, finding and impounding a flare gun, which Vraniskovski and 11 other persons were taken to the Bitola Internal Affairs Department to investigate the case.

252. After the facts of the case had been established, the Bitola Internal Affairs Department instituted criminal charges against Zoran Vraniskovski for the crime of "causing national, racial, religious hatred, discord and intolerance", while the Bitola First Instance Court Investigative Judge prescribed the measure of 30 days' detention.

253. With regard to the 11 other persons, the Bitola Internal Affairs Department submitted misdemeanor charges for the offence "violation of the peace through singing, use of musical instruments, radio and TV and other devices", in accordance with the Law against Violations of the Public Peace and Order.

254. Considering the allegations that the Macedonian border police have prevented monks, priests and bishops of the Serbian Orthodox Church from entering Macedonia dressed in their church vestments, the Government reported the following registered cases of prohibited entry of foreign priests:

(a) On 30 May 2003, at the Medzhtlija border crossing, four Greek priests tried to enter Macedonia and based on discussions with police officers on duty it was established that they had been invited by the Metropolitan of Strumica to go to Ohrid, but they did not have any written document or approval from the Commission for Relations with Religious Communities and Groups. Hence they were not allowed entry in the Republic of Macedonia;

(b) The next day, at the same border crossing, priests with 15 students of the Thessalonica Theological Faculty stated that they wanted to go to Ohrid to visit the churches. However, since they did not have an invitation, or any other evidence for previously arranged visit issued by Macedonian Church organs nor an approval from the Commission for Relations with Religious Communities and Groups they were not allowed entry in the Republic of Macedonia;

(c) On 10 June 2003, at the Tabanovce border crossing, two priests from Serbia and Montenegro were not allowed entry into Macedonia since they did not have an invitation or any other evidence for a previously arranged visit issued by Macedonian Church organs or an approval by the Commission for Relations with Religious Communities and Groups. Such conduct of the police service is in accordance with the Law on Crossing the State Border and Movement in the Border

Area, the Law on the Stay and Movement of Foreigners and the Law on Religious Communities and Religious Groups. The Law on Crossing the State Border and Movement in the Border Area stipulates that the border may be crossed with a valid passport and the previous establishment of the identity of the person that crosses the border. A foreigner may not be allowed to enter the Republic of Macedonia in cases stated in the Law, or on the basis of international or reciprocal agreements.

255. Furthermore, in accordance with article 69 of the Law on the Stay and Movement of Foreigners, a foreigner may wear a uniform during his/her stay in the Republic of Macedonia if he or she is a member of a diplomatic or consular mission of a foreign State, or a member of a foreign military mission or other delegation.

256. In addition to provisions contained in the above-mentioned laws, in cases where priests come upon the invitation of a religious community of the Republic of Macedonia, the police border organs require consent by the Commission for Relations with Religious Communities and Groups of the Government of the Republic of Macedonia. This is in accordance with article 5 of the Law on Religious Communities and Religious Groups, which provides that religious activities and ceremonies in the Republic of Macedonia, upon a request of the religious community or a religious group, may be performed by foreign nationals with the previous approval of the organ in charge of issues related to religious communities or religious groups. The violation of this provision is sanctioned by article 29 of this Law, which provides that a fine of 30,000-50,000 dinars shall be imposed on foreign nationals who perform religious ceremonious or religious instruction in a religious school without previous approval.

257. The Government finally indicated that, under the Law on the Stay and Movement of Foreigners, in particular article 2, paragraph 1, foreigners staying in the Republic of Macedonia are obliged to respect the Constitution of the Republic of Macedonia, the laws and other regulations and decisions of State organs, as well as to act in accordance with Macedonia's obligations under international treaties, which give the State grounds for undertaking measures against the foreign national, i.e. to interrupt the stay and prescribe the security measure of prohibition of entry in the Republic of Macedonia for a certain period of time (art. 30).

Turkey

Follow-up to previously transmitted communication

258. By letter dated 22 January 2004, the Government of Turkey responded to a communication sent by the Special Rapporteur on 13 October 2003 concerning the case of the Keçiören Gospel Church.

The Government first indicated to the Special Rapporteur that the church in question was located at an address different from the one given in the letter of the Special Rapporteur. The Government then stressed that, after the acts against the church, a public lawsuit was filed with the Ankara Penal Court of First Instance No. 4 against Tuncay Ergön, on the grounds of "attempting to use a knife in a brawl, aggressive drunkenness, and attempting to set fire to a building". The first hearing of the case

was to be held on 28 January 2004. It had been established by the inquiries that neither the church, nor other similar places of worship located in the district of Konak, Izmir, were subjected to any acts of aggression.

259. By letter dated 28 April 2004, the Government of Turkey transmitted additional information on the same case, declaring that according to recent information, despite the efforts of the competent authorities, since Mr. Ergön had been missing and he could not be located, he was therefore tried in absentia in line with articles 223-229 of the Penal Procedure Code. The next hearing was to be held on 3 June 2004.

General information received from the Government

260. By letter dated 1 June 2004, the Government of Turkey transmitted to the Special Rapporteur an information note summarizing the developments in the field of human rights in Turkey and the progress achieved since December 2003, including the most recent constitutional amendments which entered into force on 22 May 2004.

261. On the question of freedom of religion, the Government indicated:

(a) With regard to places of worship, the Ministry of the Interior instructed the local authorities on 24 September 2003 to designate the required places of worship in the preparation of public works plans, and to allow for the building of such places in provinces, subprovinces and towns, with the approval of the highest local civilian administrator;

(b) Work is under way with regard to the preparation of a regulation on the methods and principles of the elections of the boards of non-Muslim foundations;

(c) The Ministry of the Interior issued a circular on 24 December 2003 regarding the change of religious identity. In that regard, a certificate is no longer required and a personal declaration shall be considered sufficient for the change of religious identity;

(d) A new institutional framework, the Minority Issues Assessment Board, was established with a view to addressing the problems of the non-Muslim minorities in Turkey.

Observations

262. The Special Rapporteur thanks the Government for its replies and information.

Turkmenistan

Communications and replies received

263. On 16 March 2004, the Special Rapporteur sent a communication to the Government of Turkmenistan regarding a new law on religion that came into force on 10 November 2003 criminalizes unregistered religious activity. The new law also reportedly required religious groups to “coordinate” contacts with foreigners with the

Government, and to gain permission before receiving foreign support such as funding and religious literature.

264. On 30 November 2003, the police reportedly raided a Baptist service in Balkanabad and brought everyone present to a police station. The members of the congregation were accused of breaking the new religion law by worshipping without State registration, and 12 members were subsequently given fines of US\$ 75 each. One woman was reportedly threatened that her children would be taken from her and put in a children's home. Those summoned and fined on 23 December 2003 were **Boris Grishin, Olga Vasilieva, Marina Chukileva and Lyudmila Tabalenkova**. On 2 January 2004, it was the turn of **Tatyana Kosenchuk, Mariya Vilkova, Maksim Grishin, Yury Kippa and Vitaly Konovalov**. The final group, which included **Tariel Ramazanov, Nikolai Matsenko and Albina Matsenko**, was fined on 4 January 2004.

265. It was further reported that the State Security Ministry (MSS) had closed down a Sunni mosque for not putting the *Ruhnama* (Book of the Soul), President Saparmurat Niyazov's spiritual writings, on the same stand as the Koran during Friday prayers to be filmed for TV. Mosque leaders allegedly refused to do this as it would contradict Islamic teachings. The MSS reportedly interrogated the mosque leader, banned him from attending the mosque or to hold a position at another mosque, and closed down the mosque and put locks on the doors.

266. On 21 December 2003, Turkmen secret police allegedly raided a Shi'ah mosque in the city of Türkmenbashi (formerly Krasnovodsk) to break up a commemoration for the late President Heidar Aliiev of Azerbaijan. It was reported that the Government had de facto banned Shia'h Islamic practice. Hundreds of Muslims from Turkmenistan's ethnic Azeri minority had reportedly gathered at the mosque at lunchtime intending to share the *sadak*, the traditional prayers and communal meal led by the imam, to mark the seventh day after the death of Mr. Aliiev, who died on 12 December in the United States.

267. On 10 June 2004, the Special Rapporteur sent a communication to the Government of Turkmenistan regarding information received about the following cases:

(a) **Aleksandr Zorin**, a Jehovah's Witness, was allegedly summoned to the Gengeshi (the State body controlling religious affairs) on 10 March 2004 to be interviewed by seven persons. During the discussion, Mr. Zorin was reportedly told that if he did not abandon his "disgraceful religion", the Gengeshi would contact his workplace and have him dismissed. In the evening of 12 March 2004, Mr. Zorin was informed that he had been dismissed. The Gengeshi had allegedly written to his workplace, describing him as a "terrible man and a sectarian". Because of Mr. Zorin, his whole work would be fired if he did not agree to the dismissal;

(b) On 12 April 2004, police reportedly confiscated the belongings of members of a Baptist church in Ashgabad for conducting an "unauthorized" service in a private apartment. It was reported that the belongings of one Baptist family, including personal items, were confiscated and officials threatened to confiscate the

property of all those present. Many members of this community were allegedly fined five times the minimum monthly wage;

(c) On 9 March 2004, **Olga Fedorina**, another Jehovah's Witnesses, was reportedly assaulted by police in Ashgabad. After the police allegedly burst into her apartment and confiscated all her religious literature - a Bible, six books and a few magazines - she was taken to the police station and forced to write an explanatory statement dictated by the police. It was also reported that the district police officer harassed her sexually;

(d) On 18 March 2004, at 5.30 p.m., two people reportedly came to **Suren Gasparyan's** apartment representing themselves as coming from the Niyazov District Court of Ashgabad and required the payment of a fine of 250,000 manats. From 2000 to 2004, Suren Gasparyan was reportedly arrested some 8 to 10 times and paid a total of approximately US\$ 200 in fines imposed simply because he engaged in his religious activity;

(e) On 25 April 2004, officers of the National Security Ministry (NSM), representatives of the city *khyakimlik* (administration) for religious affairs and ordinary police officers reportedly raided a meeting held by members of the Hare Krishna in a private home in a district of Mary in southern Turkmenistan. After questioning the group for three hours, an NSM policeman allegedly threatened them with fines, dismissal from their work and criminal charges. The Hare Krishna devotees were then allowed to go home;

(f) **Sergey Ageyev**, 23 and a new convert to Hinduism, allegedly reported that police officers insulted him and required him to sign a statement that he never had, does not have and will not have anything to do with this religious group in future. He was reportedly further threatened with physical violence and criminal prosecution.

268. On 27 October 2004, the Special Rapporteur transmitted a communication to the Government regarding members of the following religious minorities.

269. **Adventists.** On 11 July 2004, a ceremonial meeting to celebrate the regaining of registration of the Adventist Church in Ashgabad, after a 7 ½-year break, had to be abruptly cancelled after officials refused to give permission for the meeting. Four months after receiving official registration as a religious community, it was reported that the Adventists still could not meet together for worship. They reportedly wrote to both the Adalat Justice Ministry and to the city administration to ask how the Church should proceed in order to rent venues for their inaugural meeting and for services, but they received no reply.

270. **Baptists.** Despite receiving its registration certificate on 25 June 2004, the Baptist Church had not reportedly completed the registration process and had not yet been given its official seal, needed to issue any legal documents. Although Baptist congregations could now meet for worship in two of Turkmenistan's cities, where they had regained prayer houses earlier sealed by the authorities to prevent worship, the congregation in Ashgabad suffered the same restriction as the Adventists.

271. On 20 August 2004, an officer of the criminal investigation department reportedly went to the Balkanabad home of **Nikolai Matsenko**, a Baptist who was the subject of a previous communication sent to the Government on 16 March 2004. After questioning him about the Church's activities, the officer allegedly warned him that if any further services took place in his apartment he would be fined. Later that evening, another police officer went to his house, presenting himself as the new local policeman and saying that he had come to get to know him. At 11 p.m. the following evening, a group of people knocked on his door. One of them introduced himself as the local policeman, although he was not the same man as the previous day. Since Mr. Matsenko did not open the door, they reportedly threatened him and then left.

272. **Bahá'ís**. Reports indicated that, despite the Bahá'ís new registration in Ashgabad, the authorities had prevented the group from renting places for meetings. On 15 August 2004, the group reported that a secret government order bans registered religious and civic groups from opening accounts at any of Ashgabad's banks, while the new registration rules required a bank account for all financial transactions.

273. **Jehovah's Witnesses**. On 9 September 2004, **Suren Gasparyan**, aged 70, and **Smbat Safaryan**, two Jehovah's Witnesses who were discussing their faith with others near Ashgabad, were reportedly arrested by an officer of the sixth department of the NSM secret police, which investigates terrorism and organized crime. When the NSM found that they were from Ashgabad, they were taken to the sixth department in the capital where they were allegedly verbally abused and humiliated. It was further reported that one officer fired his gun at a door, in an attempt to frighten them. Mr. Safaryan and Mr. Gasparyan were reportedly freed in the early afternoon after they were forced to write statements and were asked to return the next day with photographs of themselves.

274. On 6 September 2004, local police raided the home of **Rodion Rogov** in Turkmenbashi, seizing his personal Bible and copies of other Jehovah's Witnesses publications. Although the police promised to return the publications within two days, they came back five days later and confiscated another Bible from Mr. Rogov, ordering him to come to the city administration. Reports indicated that when he complied with this order on 12 September 2004, Mr. Rogov was subjected to further pressure and his literature was not returned.

275. On 5 September 2004, **Gulsherin Babakulieva**, a Jehovah's Witness, was assaulted and threatened with rape by two public prosecutors. According to the information received, she was arrested by an NSM secret police officer, together with fellow Jehovah's Witness **Gulkamar Jumayeva**, as they were discussing their faith with others. They were both taken to the Gagarin district police station and forced to give written statements. They were transferred to the city's second police station at 3 p.m. and required to present their identity documents. At 11 p.m., Ms. Babakulieva was ordered to go to the office of the deputy prosecutor, who was allegedly drunk and threatened her with rape and hit her violently several times on the head. An assistant prosecutor allegedly threatened that he would rape her as well and would then dress her as a *shahid* (suicide bomber) in order to accuse her of being a terrorist. A duty police officer reportedly saved Ms. Babakulieva from being taken away in the assistant prosecutor's car. **Gulsherin Babakulieva** and **Gulkamar Jumayeva** were

both taken to the local *khyakimlik* (administration) the following morning but ordered to come back at 7 a.m. the following day.

276. In August 2004, two men in civilian clothes and a senior police officer went to the domicile of **Adalat Charyieva**, a Jehovah's Witness in Turkmenabad in order to question her about her faith. They reportedly interrogated her harshly and requested that she give them her Bible and other religious literature, threatening her with deportation "to where Christians are living". They then reportedly ordered her to appear at the city's second police station with her identity documents, which she refused to do.

277. In September 2004, the Special Rapporteur received information concerning some ethnic Kurds – about 6,000 of whom live mainly in Ashgabad and other southern regions of the country along the border with the Islamic Republic of Iran – who were reportedly unable to practise their faith freely. Most of them were Sunni Muslims, and could therefore worship in Government-approved mosques. However, reports indicated that there were also Shi'ah Kurds and some Christians among them who often faced problems regarding freedom of religion. Reports indicated that Kurds who belong to the Yezidi faith were particularly affected. For instance, it was reported that **Seiran Amanov**, a resident of Bikrov, had been repeatedly interrogated by the secret police and accused of belonging to a "dangerous Islamic sect".

278. By letter dated 20 December 2004, the Government responded that it had been and remained committed to the unwavering and consistent implementation of the policy on ensuring comprehensive guarantees in the area of human rights and freedoms. Being a member of the United Nations and a party to over 80 conventions and international treaties, Turkmenistan strictly follows its obligations and carries out specific steps for their implementation. In this context, the Government noted that, in accordance with article 11 of the Constitution (18 May 1992), the "State guarantees freedom of religions and belief, and their equality before the law". Religious organizations are separate from the State and they cannot interfere in affairs of the State and carry out State functions. Everyone has the right to independently determine his/her relation to religion, to profess or not, individually or jointly, any religion, to express and spread beliefs related to religion, and to take part in the practice of religious cults, rituals and ceremonies". In further development of the constitutional provisions and in accordance with the Civil Code of Turkmenistan (17 July 1998), on 21 October 2003, the Parliament of the country adopted the Law on "Freedom of religious belief and religious organizations", which ensures the right of every person to freedom of religious belief as well as the right to equality before the law, irrespective of his/her relation to religion and belief.

279. Moreover, on 11 March 2004, the President of Turkmenistan signed Decree No. 6627 on "Ensuring Religious Freedom of Citizens in Turkmenistan" according to which the registration of religious organizations and groups throughout the territory of Turkmenistan is carried out in accordance with international norms irrespective of the number of followers, their beliefs and the religion.

280. The Government informed the Special Rapporteur that, at present, religious organizations and groups of Muslims, Orthodox Christians, the Church of Seventh-Day Adventists, Bahá'ís, Evangelical Baptists and Hare Krishna groups were

officially registered in the country. Furthermore, in May 2004, a law was adopted which abolished criminal liability for activities of religious organizations that are not registered in accordance with the requirements. The Government stressed that it implements international norms relating to the observance of the religious rights and freedoms of citizens, ensuring in this context harmony among the religious confessions throughout the territory of the country. In this connection, the Government indicated that it regretted that sometimes some unreliable sources gave non-objective information on this matter. The Government finally stated that the facts mentioned in the letter sent by the Special Rapporteur did not correspond to the reality.

Observations

281. The Special Rapporteur is grateful for the details provided in the reply of the Government. However, she still awaits the observations of the Government on the particular cases that she has brought to its attention. She would also like to recall her request for an invitation to visit the country that has so far remained unanswered.

United Kingdom of Great Britain and Northern Ireland

Communications and replies received

282. On 26 March 2004, the Special Rapporteur sent a communication to the Government of the United Kingdom of Great Britain and Northern Ireland in connection with information received according to which on 18 March 2004, vandals had attacked around 40 Muslim graves at a cemetery in Charlton, south-east London, in an apparent hate crime. Headstones were reportedly smashed and pictures removed from graves. British Islamic leaders had allegedly warned about a possible backlash against Muslims in the wake of attacks blamed on Al-Qaeda or other hard-line Islamic groups.

283. By letter dated 10 September 2004, the Government of the United Kingdom of Great Britain and Northern Ireland provided the Special Rapporteur with a summary prepared by the United Kingdom Home Office, the department with lead responsibility for these issues.

284. On 18 March 2004, approximately 72 graves in Charlton Cemetery, south-east London, were discovered to have been desecrated or damaged in the course of the previous night. Some of the headstones had been pushed over and the flowers that had been placed by relatives removed and thrown about. Other headstones had been smashed to pieces with what appeared to have been a hammer. The desecration had been limited to a part of the cemetery that was occupied mainly by the deceased of Turkish or Cypriot descent and Muslim faith. The majority of the desecrated graves had markings or writing on them that would indicate that the occupant was of Muslim faith. One Catholic grave, which was situated next to the Muslim plots, had also been desecrated.

285. The Government indicated that three suspects were charged with Racially Aggravated Criminal Damage contrary to section 1 of the Criminal Law Act 1977 as defined by section 28 of the Crime and Disorder Act 1998. The suspects admitted involvement in the desecration but two of them denied any racial or religious motivation

for the attacks. The names of the suspects could not be disclosed as all three were juveniles. The cases had been committed to the Crown Court for trial. Although no trial date had been set yet, it was expected to take place sometime next year.

286. According to the Government's response, considerable resources were allocated to the investigation in its early stages and the inquiry team worked over two weekends to ensure a rapid response to all information. New Scotland Yard deployed a Metropolitan Police Officer with connections to the Turkish community and a Turkish-speaking police officer was employed during the investigation to assist with the victims of this crime. This had a very positive effect on the victims, who expressed their thanks both verbally and in writing.

287. The Government indicated that a National Community Tension Team had been established through the Home Office. The team's core business was to receive reports of tension from all forces in the United Kingdom and compile them into a national assessment. Particular focus was given to Muslim communities because of the fear they have of victimization. The Association of Chief Police Officers had recommended that all forces specifically record religiously aggravated offences and this would happen once local recording systems were updated. Police meetings with community representatives would be held following such incidents to ensure that any police responses were sensitive to community fears. All police forces have third party reporting schemes that could be used to enable better reporting of Islamophobic incidents and a help line for this purpose was also being considered.

Observations

288. The Special Rapporteur is grateful for the details provided in the reply of the Government and would like to refer to the most recent concluding observations of the Committee on the Elimination of Racial Discrimination of 20 August 2003 (CERD/C/63/CO/11) in which concern was expressed "about reported cases of 'Islamophobia' following the 11 September attacks. Furthermore, while the Committee [noted] that the State party's criminal legislation includes offences where religious motives are an aggravating factor, it regret[ed] that incitement to racially motivated religious hatred is not outlawed. The Committee recommend[ed] that the State party give early consideration to the extension of the crime of incitement to racial hatred to cover offences motivated by religious hatred against immigrant communities".

United Republic of Tanzania

Communications and replies received

289. On 4 November 2004, the Special Rapporteur sent a communication to the Government of the United Republic of Tanzania in relation to reports in 2004 of growing tension between the Muslim minority of Zanzibar, on the one hand, and the Christian majority and the Government on the other hand. According to the information received, in March 2004, Zanzibari police used tear gas to disperse a

demonstration by Uamsho (also known as Islamic Revival or the Centre for Islamic Propagation), an umbrella organization of Muslim organizations. The group does not recognize Zanzibar's Mufti Law (which provides for State-appointed muftis) and therefore had refused to seek a permit from the mufti's office as required. The demonstrators reportedly included minors. Several demonstrators suffered injuries when the police broke up the demonstration. Some were arrested.

290. Also in March, a series of small explosions and fire bombings in and near Stonetown on Zanzibar were reported. The targets included a vehicle belonging to a church and the mufti's house, which was damaged slightly. The police arrested 45 persons, including some Uamsho members, in connection with the bombings. The Uamsho members have alleged that they were beaten while they were in custody.

291. On 10 March 2004, a Roman Catholic church in central Zanzibar was attacked in an act of arson. It was reported that the perpetrators broke into the church and set it on fire. One week later, on Wednesday, 17 March, a petrol bomb destroyed a school bus belonging to the Catholic Church while it was parked on the school grounds. Uamsho was reportedly accused of being involved in the attacks.

United States of America

Communications and replies received

292. On 28 June 2004, the Special Rapporteur transmitted a communication to the Government of the United States of America in connection with information received according to which acts of religious intolerance against Muslims and their religion had continued to occur throughout the country. In particular, it was reported that the number of hate crimes coincided with a rise in Islamophobic rhetoric in the public discourse in the United States.

293. In this connection, the Special Rapporteur provided the following illustrations of alleged incidents whereby public persons or professionals of the media had portrayed or criticized Islam in ways that could constitute incitement to religious hatred as prohibited by article 20 of the International Covenant on Civil and Political Rights.

294. It was reported in October 2003 that the Deputy Under-Secretary of Defence for Intelligence, Lt. Gen. William G. "Jerry" Boykin, had on numerous occasions referred to the "war on terrorism" as a "spiritual battle" and made negative comments on Islam. It was also reported that the Department of Defence announced an investigation of Lt. Gen. Boykin but that the report following the investigation had not been released.

295. On 9 February 2004, Congressman Peter T. King reportedly declared on the Sean Hannity nationally syndicated radio programme that "85 per cent" of American Muslim community leaders are "an enemy living amongst us" and that "no [American] Muslims" cooperate in the struggle against terrorism.

296. On 4 March 2004, in an article that was published in a number of on-line magazines including Human Events Online and FrontPageMagazine.com, Ann

Coulter allegedly remarked that “[b]eing nice to people is, in fact, one of the incidental tenets of Christianity (as opposed to other religions whose tenets are more along the lines of ‘kill everyone who doesn’t smell bad and doesn’t answer to the name Mohammed).” In the same article, a reference was also made to “[The Prophet] Muhammad’s many specific instructions to kill non-believers whenever possible.” It was reported that Ms. Coulter had made a number of similar comments regarding Islam and Muslims in the past.

297. On 1 April 2004, 630 WMAL-AM radio talk show host Michael Graham in Washington D. reportedly said: “I don’t wanna say we should kill ‘em all [Muslims], but unless there’s reform [within Islam], there aren’t a lot of other solutions that work in the ground struggle for survival.”

298. On 22 April 2004, radio host Jay Severin reportedly said during his talk show on 96.9 FM Talk – WTKK that he “believe[s] that Muslims in this country are a fifth column.... The vast majority of Muslims in this country are very obviously loyal, not to the United States, but to their religion. And I’m worried that when the time comes for them to stand up and be counted, the reason they are here is to take over our culture and eventually take over our country.” Mr. Severin allegedly further declared, in reply to a caller speaking of Muslims in the United States, “[y]ou think we should befriend them; I think we should kill them.”

299. On 14 June 2004, the Editor-In-Chief of *U.S. News & World Report*, Mortimer B. Zuckerman, reportedly stated in an editorial in that week’s issue that “Wherever there is violence, there are Muslim radicals” and that “Islam is the core reason the terrorists give for their killing. Murder is their religion.” Furthermore, Mr. Zuckerman remarked that “Europe is threatened by mass migration from neighbouring Islamic lands, young men bringing with them their radical faith and not much else.”

300. By letter dated 3 August 2004, the Government of the United States of America responded that the First Amendment of the United States Constitution provides that “Congress shall make no law abridging the freedom of speech”. This principle, which for more than 200 years has been a cornerstone of democracy in the United States, also finds expression in article 19 of the Universal Declaration of Human Rights. It finds further expression, inter alia, in article 18 (1) and article 19 of the International Covenant on Civil and Political Rights (ICCPR).

301. The United States stressed that no nation can develop politically or economically without the ability of its citizens to openly and freely express their opinions without a free print and broadcast media.

302. With respect to article 20 of the ICCPR, the Government noted that the language was susceptible to an expansive interpretation that could run contrary to the vigorous protection of the freedom of expression under the First Amendment of the Constitution. For this reason, the United States had made the following formal reservation to article 20 at the time it became party to the ICCPR:

“That Article 20 does not authorize or require legislation or other action by the United States that would restrict the right of free speech and association protected by the Constitution and laws of the United States.”

303. According to the Government's response, statements allegedly made by individuals criticizing Islam, such as those statements referred to by the Special Rapporteur, are not illegal under United States law. Even where the United States Government finds the content of such expression to be misguided and repugnant, the Constitution mandates that the Government neither prohibit nor regulate speech merely as a result of disapproval of the ideas expressed. The criminal justice system penalizes specific unlawful actions (which might or might not be inspired by hate, xenophobia, or racism), as opposed to punishing speech itself. The Government's preferred approach to addressing hate speech is to confront it openly, to denounce it, and to promote tolerance, equality, and similar ideals through competing speech.

304. With regard to the negative comments on Islam allegedly made by Lieutenant General William G. Boykin, Deputy Under-Secretary of Defence for Intelligence, while speaking to private groups, the Government informed the Special Rapporteur that the office of the Inspector General at the Department of Defence had opened an investigation into this matter and that this investigation was still ongoing. Responding to a question about General Boykin's remarks at a press conference on 28 October 2003, President Bush reportedly said that "He doesn't reflect my point of view or the view of this administration".

305. According to the Government's response, there were numerous examples that illustrated the commitment of the United States to free speech and religious tolerance, including:

(a) President Bush had hosted Iftaar dinners at the White House in 2001, 2002 and 2003 to celebrate Eid al-Fitr. During his remarks at the 2003 dinner, President Bush observed: "As we defend liberty and justice abroad, we must always honour those values here at home. America rejects all forms of ethnic and religious bigotry. We welcome the values of every responsible citizen, no matter the land of their birth. And we will always protect the most basic human freedom the freedom to worship God without fear.";

(b) President Bush had visited the Islamic Center of Washington, DC and had made numerous public statements in support of Islam and its adherents;

(c) On 20 February 2003, a jury found Charles Franklin of Florida guilty of damaging religious real property. He was sentenced to a term of 27 months' imprisonment for driving his vehicle into the entryway of the Islamic Center of Tallahassee in Tallahassee, Florida;

(d) On 3 April 2003, Robert Goldstein pleaded guilty to a charge of conspiracy to violate civil rights, attempting to damage religious property, obstruction of persons in the free exercise of religious beliefs, and possession of firearms not registered to him. He had planned to detonate an explosive device at the Islamic Society of Pinellas County, Florida, an Islamic education and cultural centre. In June 2003, he was sentenced to 12 years and 7 months' imprisonment. Then Assistant Attorney-General for Civil Rights, Ralph Boyd, Jr., stated: "Today's guilty plea is a reminder that acts of violence targeted at individuals because of their race, religion, or national origin will not be permitted in the United States--they will be aggressively investigated, swiftly prosecuted and

firmly punished. The Department of Justice is committed to fighting hate and intolerance, as they tear at the very fabric of our great nation.”

Follow-up to previously transmitted communication

306. By letter dated 25 March 2004, the Government of the United States of America provided the following information in response to a communication sent by the Special Rapporteur on 2 June 2003.

307. The Government first underlined that Americans have long cherished their own religious freedom, which holds an integral place in America's history and identity. The United States Government continues to be greatly concerned by discrimination and violence against persons of all faiths and ethnic groups. Discrimination against any person based on his or her religious faith is unlawful in the United States and acts of violence against people on this basis are criminal offences. The Government then recalled that, on 30 April 2002, President George W. Bush had affirmed the commitment of the United States to religious tolerance as follows:

“America rejects bigotry. We reject every act of hatred against people of Arab background or Muslim faith. America values and welcomes peaceful people of all faiths -- Christian, Jewish, Muslim, Sikh, Hindu and many others. Every faith is practised and protected here, because we are one country.”

308. The Government stated that the Special Rapporteur did not provide the source of the information or, in some cases, sufficient details about the allegations, to allow the United States to comment directly upon the specific claims. It also noted that a very high number of incidents motivated by hate were investigated and prosecuted by state and local governments, without any involvement by the federal Government.

309. With regard to the allegations of assault, the Department of Justice reported that following the terrorist attacks of 11 September 2001, there was a surge in hate crimes by private individuals against Arabs, Muslims, and Sikhs (mistaken for Muslims) residing in the United States. The rate of those offences then dropped precipitously within a few weeks until, as of mid-January 2002, the rate had nearly returned to the low rate prevailing prior to 11 September. In 2001, 9,726 incidents of hate and bias crime were reported to the Federal Bureau of Investigation. This number fell to 7,462 reported incidents in 2002, the latest year for which figures had been released. United States law has long provided criminal penalties for certain violations of civil rights. The United States Government has made clear that any act of violence or discrimination against a person based on the perceived race, religion, or national origin of that person is contrary to the fundamental principles and the laws of the United States. Any threats of violence against Arab or Muslim Americans or Americans of South Asian descent are unlawful and would be treated as such. Such acts of hatred violate federal law and, more particularly, ran counter to the very principles of equality and freedom upon which the United States was founded. The Department of Justice and the Federal Bureau of Investigation indicated that they were committed to investigating and prosecuting aggressively violations of federal hate crime statutes. In this connection, the Department of Justice has increased the level of staffing for its Civil Rights Division by 10 per cent since January 2001. There

has been a 12 per cent increase in successful prosecutions of criminal civil rights violations since 2001. The Department has prosecuted more than 90 discriminatory backlash hate crimes since 11 September 2001. It has also prosecuted 43 non-11 September-related hate crimes cases since 2001 and initiated over 600 additional hate crime investigations into incidents not related to 11 September.

310. In relation to the case of Rashid Alam, who was assaulted by a group of teenagers on 22 February 2003 in Yorba Linda, California, the Government informed the Special Rapporteur that the Brea Police Department in Orange County, California, investigated the case and that, on 29 May 2003, the District Attorney filed complaints against three juvenile defendants. On 8 October 2003, the Brea Police Department was notified that the case had been adjudicated pursuant to California judicial processes. As the charges involved juvenile offenders, no further information about the case was available. Civil suits related to the incident were ongoing, highlighting the fact that United States civil courts provide an additional means of redress for these types of offences.

311. With regard to the alleged several cases of attacks or planned attacks on places of worship referred to by the Special Rapporteur, the Government reported that on 19 November 2001, four individuals went to the Gobind Sadan temple, associated with the Sikh religion, in Oswego, New York. The individuals carried out acts of criminal mischief and two of them set fire to the building, resulting in more than \$125,000 in damage. Following a joint investigation conducted by the New York State Police, the Bureau of Alcohol, Tobacco and Firearms, and the Federal Bureau of Investigation, authorities determined that these acts had been committed in retribution for the terrorist attacks of 11 September 2001. Two individuals were charged with felony counts of criminal mischief and were sentenced to jail sentences, probation, and fines of \$1,000. In May 2002, the other two individuals were charged with arson and reckless endangerment and were sentenced to 3-12 years' imprisonment.

312. With regard to the allegations of employment discrimination, the Government indicated that between 11 September 2001 and 11 February 2004, the Equal Employment Opportunity Commission (EEOC) received 904 charges by individuals alleging that they were victims of backlash discrimination by individuals who are or who are perceived to be Muslim, Arab, Afghani, Middle Eastern, South Asian, Sikh, or other groups that might be the target of such actions following the events of 11 September 2001. The two most common allegations in those charges were harassment and discharge. Thus far, the EEOC had recovered over \$2.2 million in monetary benefits for individuals aggrieved by post-9/11 backlash discrimination in employment through its enforcement, mediation, conciliation, and litigation efforts. The Commission is a five-member body that enforces Title VII of the Civil Rights Act of 1964. Its mission is to eliminate unlawful employment discrimination, including religious discrimination. It has been at the forefront of the federal Government in conducting vigorous outreach and education to both the employer and labour communities at the national and grass-roots levels to prevent such discrimination and promote voluntary compliance with the law. Title VII prohibits employers from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment. Title VII covers employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labour organizations, as well as to the federal

Government. Under Title VII, employees cannot be forced to participate--or not participate--in a religious activity as a condition of employment. Employers must reasonably accommodate employees' sincerely held religious beliefs or practices unless doing so would impose an undue hardship on the employer.

313. The Government indicated that a reasonable religious accommodation is any adjustment to the work environment that will allow the employee to practise his religion. An employer is not required to accommodate an employee's religious beliefs and practices if doing so would impose an undue hardship on the employer's legitimate business interests. An employer can show undue hardship if accommodating an employee's religious practices requires more than ordinary administrative costs, diminishes efficiency in other jobs, infringes on other employees' job rights or benefits, impairs workplace safety, causes co-workers to carry the accommodated employee's share of potentially hazardous or burdensome work, or creates a conflict with another law or regulation. Employers must permit employees to engage in religious expression if employees are permitted to engage in other personal expression at work, unless the religious expression would impose an undue hardship on the employer. Therefore, an employer may not place more restrictions on religious expression than on other forms of expression that have a comparable effect on workplace efficiency. Employers must also take steps to prevent religious harassment of their employees. In fiscal year 2002 (1 October 2001 – 30 September 2002), the EEOC received 2,572 charges alleging religious discrimination. The Commission resolved 2,729 religious discrimination charges and recovered \$4.3 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation).

314. The Commission believes that the preferred method for eradicating employment discrimination at the workplace is to prevent it from happening in the first place. It has a statutory mandate to educate the public and provide outreach and technical assistance to facilitate voluntary compliance with the laws the Commission enforces, a mandate that took on even greater importance in the aftermath of 11 September 11. Three days after 11 September 2001, EEOC Chair Dominguez made a strong public statement advocating tolerance and avoidance of workplace discrimination. The Chair encouraged employers to re-emphasize their anti-discrimination and harassment policies, and to do everything within their power to prevent the singling-out of Middle Eastern and Muslim employees. The EEOC devoted a section of its web site to issues related to 11 September and posted on the site a fact sheet explaining Title VII's prohibitions against religious and national origin discrimination.

315. The EEOC also coordinated with the Department of Justice and the Department of Labor to ensure that the federal response to backlash discrimination is uniform and strong. The leaders of the three civil rights agencies issued a joint statement that commended acts of tolerance since 11 September, but also stated that there had been continuing reports of workplace harassment and discrimination against Arab, Muslim, and South Asian employees. The statement emphasized the importance of prevention, and reaffirmed the Government's commitment to non-discrimination in the workplace.

316. Directors of EEOC offices throughout the country sent out mass mailings and conducted community forums and stakeholder meetings to reach out to the Arab, Muslim, Middle Eastern and Sikh communities and to educate the general public and employee and employer groups about the laws prohibiting religious and national discrimination in the workplace. District Directors also met with groups such as the Council on American Islamic Relations and the Arab-American League and gave interviews to television and radio stations serving the Arab and Muslim communities.

317. EEOC staff members have participated in a number of events to discuss discrimination against the Muslim community and stress EEOC's availability to help.

318. Some recent efforts include:

(a) The Dallas District Office participated in events at the Festival of Sacrifice Celebrations held at the State Fair Grounds in Dallas and at the Will Rogers Coliseum in Fort Worth. The office manned exhibits and distributed information and materials at both locations. The events were covered by the Dallas *Morning News* newspaper, which reported that more than 15,000 Muslims attended the event in Dallas;

(b) District staff from the New York District Office met with several Islamic religious leaders at one of New York City's largest mosques to discuss discrimination against the Muslim community and the availability of EEOC to help. EEOC staff also visited a prayer meeting and distributed literature. Staff also participated with former Vice-Chair Paul Igasaki in outreach to the Muslim community on Long Island. They attended a noon prayer at a mosque along with 500 members and participated in a round table discussion with Muslim leaders regarding EEOC procedures and anti-harassment policies against different ethnic groups. The discussion was videotaped for distribution to the Muslim community;

(c) Legal staff from the Washington, DC Field Office participated in a panel discussion at a joint forum on backlash sponsored by the Department of Justice. The presentation was on EEOC and Title VII discrimination based on national origin, religion, race and retaliation. The presentation was followed by a question and answer session;

(d) The Regional Attorney from the Atlanta District Office participated in a round table discussion with business and religious community leaders at the law office of Powell Goldstein Frazier & Murphy. The discussions focused on the legal issues surrounding religion in the workplace and how companies are addressing the issue in the context of today's workplace following the events of 11 September;

(e) Staff from the Chicago District Office participated on a panel before the Illinois Advisory Committee to the United States Commission on Civil Rights in a community forum on "Arab and Muslim Civil Rights Issues in the Chicago Metropolitan Area: Post-September 11." The purpose of the meeting was to gather information on the treatment of Arabs and Muslims following the terrorist attacks on 11 September and related civil rights issues. Other panellists included the United States Attorney for the Northern District of Illinois, an FBI Special Agent, Regional Director of the Immigration and Naturalization Service, and representatives from the Arab American Bar Association, the American-Arab Anti-Discrimination Committee, and the Council of Islamic Organizations of Greater Chicago;

(f) EEOC staff in the New York District Office addressed the Council on Islamic Relations and other Muslim and Arab groups at the Council's New York

Chapter's 2003 annual meeting about the EEOC's response to discrimination against Muslims and Arabs. The event, which was open to the entire community, took place at the Riverside InterChurch in Manhattan.

319. The Government further indicated that the EEOC had also addressed the two instances noted by the Special Rapporteur in which employees were allegedly disciplined or terminated from employment on the basis of their religion or national origin.

320. The first involved Bilan Nur, a customer service representative for Alamo Car Rental, who was denied permission in 2001 to cover her head with a scarf during the month of Ramadan consistent with her religious tenets. The company told her that the company dress code prohibited wearing a scarf but, in fact, Alamo apparently had no such policy. The company subsequently disciplined, suspended, and terminated Ms. Nur for failure to remove her headscarf. In September 2002, the EEOC filed a post-11 September-backlash discrimination lawsuit under Title VII against Alamo Car Rental. The lawsuit challenges the discipline, suspension, and termination of Ms. Nur, and seeks monetary relief, including back pay and compensatory and punitive damages. The EEOC is also seeking an injunction prohibiting future discrimination and any other relief to prevent Alamo from engaging in any further discriminatory practices. At the time of the communication this case was still in the pre-trial discovery phase.

321. The EEOC also filed a lawsuit in September 2002 in the other case referred to by the Special Rapporteur involving the Worcester Art Museum. The suit alleged that, in the wake of the terrorist attacks of 11 September 2001, the museum fired Zia Ayub, an Afghan-American Muslim man, on the basis of his national origin and religion. The suit was filed in the United States District Court for Massachusetts (Civil Action #02 CV 40176 NMG) and stated that on 4 January 2002, the museum terminated Mr. Ayub's employment without notice, allegedly for taking excessive time to complete security rounds on three separate occasions. The suit alleged that reasons given for Mr. Ayub's termination were false and were used as an excuse for discrimination. In addition, in Mr. Ayub's case, the museum failed to follow its usual and customary practice of issuing oral and written warnings, or a suspension, and it failed to follow its usual practice of issuing a memo to all employees reminding them of the museum's expectations. The EEOC complaint sought monetary and injunctive relief on behalf of Mr. Ayub, including back wages, compensatory damages, and punitive damages. The pre-trial discovery phase of this case was to conclude on 30 April 2004.

322. With regard to the several statements allegedly made by prominent individuals criticizing Islam to which the Special Rapporteur also referred, the Government indicated that such statements were not illegal under United States law. On 13 November 2002, President George W. Bush stated that, "Some of the comments that have been uttered about Islam do not reflect the sentiments of my Government or the sentiments of most Americans. Islam, as practised by the vast majority of people, is a peaceful religion, a religion that respects others. Ours is a country based upon tolerance and we welcome people of all faiths in America." The Government also recalled its comments made in the above-mentioned response sent to the Special Rapporteur.

323. With regard to the mention by the Special Rapporteur that in January 2003, FBI Director Robert Mueller reportedly instituted a new policy directive to field offices concerning the use of local mosques in setting goals for counter-terrorism investigations and wiretaps, the Government indicated that, in early January 2003, FBI headquarters asked its field offices to provide a range of demographic, statistical, operational, and other information relating to international terrorism by responding to a survey questionnaire. This was part of a broader effort to help the FBI develop a more comprehensive and meaningful set of performance measures for field offices. Out of dozens of questions in the survey, one asked the total number of mosques in the area covered by each field office. This informational survey was intended simply to gather facts on vulnerabilities. Information on mosques could not and would not be used to measure the terrorist threat or to set investigative goals. Rather, the question was designed to help paint a broad picture of local demographics and vulnerabilities to terrorism. When combined with many other factors, such information can help officials evaluate the relative potential for terrorism in different areas of the country and also increase their awareness of the potential for hate crimes and other attacks against Muslims and Arabs.

324. Following the events of 11 September, the Department of Justice's highest priority is the detection and prevention of terrorism and the dismantling of terrorist organizations and the entities that support them, while preserving its constitutional liberties. The Government stressed that as it fights the war on terrorism, it does so within a framework of justice that upholds its other crucial responsibilities. The Department of Justice has vigorously protected civil rights. The FBI is fundamentally opposed to racial or ethnic profiling of any kind. In fact, the FBI is responsible for prosecuting individuals who commit hate crimes or otherwise violate the civil rights of the American people. Since 11 September 2001, the FBI has swiftly and thoroughly investigated more than 360 vigilante attacks on Arab, Muslim, and Sikh Americans.

325. In conclusion, the Government stated that it values the diversity of its population. Tolerance and respect for all peoples have been the foundation of American society. The United States will continue to be steadfast in the fight against racism, racial discrimination, xenophobia, and related intolerance, both at home and abroad. As shown above, the Department of Justice, the FBI, the Equal Employment Opportunity Commission and other federal, state, and local agencies are working together to take tough measures to combat crimes and all forms of discrimination and to ensure that all religious liberties remain protected.

Observations

326. The Special Rapporteur is grateful for the detailed reply sent by the Government.

Uzbekistan

327. On 12 March 2004, the Special Rapporteur sent a communication to the Government of Uzbekistan in relation to information received according to which Uzbekistan was denying clergy access to death row prisoners, allegedly in violation of the Uzbek Criminal Code, which specifically allows those sentenced to death to meet a member of the clergy. Two death row prisoners, **Yevgeni Gugnin** and **Vazgen**

Arutyunyants, had reportedly appealed to have priests sent to them but have had no replies. In addition, authorities had also allegedly prevented death row prisoners from having religious literature of their choice.

328. On 18 September 2003, a secret police raid on a Jehovah's Witness meeting in the town of Chirchik allegedly took place on the grounds that the house where they were meeting was not registered as a church building. Yet, according to information received, the building was in fact registered to the Jehovah's Witnesses.

329. It was further reported that on 20 December 2003 two Jehovah's Witnesses, **Gulya Boikova** and **Parakhat Narmanova**, were arrested, insulted and threatened with rape by the police in the town of Karsh. On 22 January 2004, a court case against the women was reportedly adjourned.

330. An official in the town administration of Muinak in the autonomous Karakalpakstan Republic has allegedly helped to have a Protestant teacher fired from a local school on 22 July 2003 after he refused to renounce his faith. The official, **Jalgas Saidmuratov**, was reported to have said that a Protestant may not work as a school teacher in Uzbekistan, as the State was "moving towards Islam". Yet, allegedly, the sacking of **Lepesbai Omarov** violated Uzbekistan's Constitution and religion law, which proclaim Uzbekistan a secular State and outlaw discrimination on religious grounds.

331. It was reported that an unregistered Protestant church in the village of Ahmad Yassavy had been closed down on the orders of the deputy head of the Upper Chirchik district administration, Shukhrat Tursunbayev. Police officers and local officials allegedly burst into the Sunday service of the Friendship Church on 7 September 2003, took down the names of all those present, sealed the church and warned the congregation that they would be prosecuted.

332. It was also reported that for the fourth time since the Peace Protestant Church in Nukus, Karakalpakstan, was stripped of its registration in August 2000, the Church was raided by the police during worship on 24 August 2003. Two of its leaders, **Khym-Mun Kim** and **Konstantin Kmit**, were allegedly fined five times the minimum monthly wage. The Church leaders have reportedly tried to reregister the Church but to no avail.

333. Local authorities were reportedly preventing a local Baptist congregation from meeting for worship in the village of Khalkabad in the Pap district of Namangan region. In another incident involving Baptists, pastor **Oleg Bader** was allegedly forced to change and reregister the statute of his Church. On 27 November 2003, at a hearing of the administrative commission for Khorezm region, Pastor Bader was reportedly fined 22,000 Uzbek sums.

334. On 29 March 2004, the Special Rapporteur transmitted a communication to the Government in relation to information received according to which, in the first such case since 2002, a Jehovah's Witness from Samarkand, **Vladimir Kushchevoy**, had been sentenced under the criminal law for "failing to observe the prescribed manner of communicating religious doctrine" to three years' "corrective labour" and 20 per cent of his wages were to be confiscated by the State. His Bible and other religious

literature were reportedly ordered by the court to be destroyed. No proof was produced that Mr. Kushchevoy was actually giving religious instruction. This sentence appeared to be part of a growing trend to destroy religious literature, as well as to target both Jehovah's Witnesses and Protestant Christians. However, since 2002, the authorities had not been using the criminal law against these religious minorities, using other means of attacking them instead.

335. By letter dated 13 December 2004, the Government responded that article 12 of the Criminal Procedure Code of Uzbekistan guarantees freedom of conscience of all detained or convicted persons. They have the right to worship and exercise their belief in any religion or to believe in no religion. At the request of imprisoned or detained persons, priests of appropriately registered religious institutions are invited to visit them. Imprisoned and detained persons are allowed to worship and to use all necessary materials and literature. Persons sentenced to death are allowed before execution to carry out relevant religious rites during visits of priests. Religious ceremonies and practices are optional in prisons, and these practices should not violate the internal rules and regulations of penitentiary institutions, and should not infringe upon the rights and legal provisions affecting other persons. Moreover, article 137 of the Criminal Procedure Code clearly provides for the exercise of the right of persons sentenced to death to meet priests.

336. The Government indicated that the death sentence against Mr. Gugin adopted on 28 October 2002 was commuted to 20 years' imprisonment on 26 March 2004. On 23 December 2003, while he was imprisoned in the penitentiary institution, he met with Father Igor, a priest of the Dombrabad Cemetery Church. The death sentence against Mr. Arutyunyants adopted on 31 May 2000 was commuted to 20 years' imprisonment on 29 December 2001. On 14 January 2004, during his imprisonment in the penitentiary institution, he also met with Father Igor. Hence, the allegations that the two men were denied visits by a member of the clergy and religious literature of their choice were groundless.

337. The Government further stressed that the Jehovah's Witnesses Church was officially registered on 20 August 1999 with formal and legal address at 4, Nodirabegim Street, Chirchik City, to exercise worship and prayers. This organization had bought an additional building in the city but had not obtained relevant permissions and registrations from the City Administration, the Architecture Board, the Fire Department, the Sanitary and Epidemics Control Department and the local self-governance body in order to pray and conduct religious events in the new building. On 18 September 2003, 48 Jehovah's Witnesses conducted religious services in the new building, which contradicted the existing law. In view of this situation, law enforcement bodies recommended to the organization that it formalize the necessary documents in order to conduct religious activities in the building and absolve members of the organization from any responsibility. In this connection, the Government wished to underline that the observance of provisions stipulated in the law is aimed, first and foremost, at ensuring the rights, interests and security of religious organizations.

338. According to the Government, on 20 December 2003, Gulya Boikova and Parakhat Narmanova, having no specific religious education or degree and no permission from the central board of the religious organization Jehovah's Witnesses,

went to the house of S. Abdugaffarov to give him religious instruction and make propaganda. Such activities contradict the provisions of article 5 (3) of the Law of the Republic of Uzbekistan on “Freedom of conscience and religious organizations”. The situation had accordingly been carefully studied and reviewed by the Department of Internal Affairs (DIA) of Kashkadarya Province and later by the Karshi City Court. On 23 January 2004, the relevant documents were sent to the DIA of Karshi City for further inquiry and clarification. As a result, the DIA established no violation of administrative norms, and, on 20 March 2004, the investigation was discontinued. The Government indicated that the inquiries had confirmed that Ms. Boivoka and Ms. Narmanova had not been detained and no harassment or intimidation or other forms of ill-treatment had occurred. The Government also noted that according to the legislation of the Republic of Uzbekistan any religious organization obtains the status of a legal person once it is registered by the appropriate institutions and conducts its activities in accordance with the law. However, the founders of a branch of the religious organization Jehovah’s Witnesses in Karshi City have not applied for State registration with the Justice Department of Kashkadarya Province and attempted to ignore the provisions of the law.

339. The Government also informed the Special Rapporteur that Lepesbai Omarov worked as a sports teacher in the Youth Sports School in the Muinak district of Karakalpakstan till 24 November 2003. From 16 October to 11 November 2003 he did not go to work without giving any valid reason for his absence. He was therefore sacked from his post by the relevant order, Ref. No. 140 of the Muinak district department of education. The Government indicated that the allegations of the Special Rapporteur regarding the reasons for the dismissal of Mr. Omarov from his job were groundless and did not correspond to the real situation. Mr. Omarov had not applied to a court or a law enforcement body regarding the issue of violation of his rights. The Government also underlined that citizens of Uzbekistan have the right to worship and exercise their belief in any religion or to believe in no religion. No one is dismissed from his or her job on the ground of belief.

340. According to the Government, on 23 December 2003 a group of citizens of the Friendship Biblical Baptist Church in the village of Ahmad Yassaviy applied in Tashkent Province for registration of the statute of this organization with the Justice Department of the province. In the process of examining the application and its enclosures, shortcomings were found in the documents. In this connection, and according to the decision of the Justice Department on 23 March 2004, the application was not approved but it was explained that the shortcomings in the documents should be eliminated by the organization and. At the time of the communication, no new application had been received from the organization. The administrative and law enforcement bodies of the district had taken measures to suspend the activity of the organization since it had conducted its business in violation of the provisions of the law. The Friendship Biblical Baptist Church could start its activity after its registration.

341. The Government indicated that the registration document of the Peace Protestant Church in Nukus was discontinued according to the decision Ref. No. 22 of the Ministry of Justice of Karakalpakstan on 24 July 2000 for violation of the provisions of the statute of the organization and article 3 of the Law on “Freedom of conscience and religious organizations”. In violation of the law, the organization had

conducted courses, teaching and religious events for minors in a summer camp in Nukus district without the consent of the parents. According to article 9 of the Law on “Freedom of conscience and religious organizations”, religious organizations may establish schools only if they are properly registered and have the relevant licences for these purposes. Mr. Kim and Mr. Kmit, after the discontinuation of registration of the Peace Protestant Church, started to act as leaders of the newly founded Nukus Christian-Evangelistic Presbyterian Church organization and made several applications for registration of this organization. Three applications had been rejected for violation of application procedures and shortcomings in documents. However, since October 2002, no new application had been received by the justice department. Not being registered, the Nukus Christian-Evangelistic Presbyterian Church violated provisions of a number of existing laws and regulations by its unlawful religious activity. The case was reportedly studied and reviewed by the court and law enforcement body of Karakalpakstan and the court issued a warning to Mr. Kim and Mr. Kmit. However, they continued their unlawful activity involving religious activity and teaching of children without State registration, a licence or the consent of parents of minors. In December 2002, law enforcement bodies of Karakalpakstan brought a criminal case against Mr. Kmit for violations of the Criminal Code but, in accordance with the Presidential Amnesty on the occasion of the tenth anniversary of Uzbekistan, the case against him was discontinued. Mr. Kim participated in the case as a witness. After that, the two men continued their unlawful activities. On 26 September 2003, the Nukus City Court sentenced Mr. Kim and Mr. Kmit to the administrative punishment of a fine. This decision was not adopted against their belief or religious practices but for the violation of existing laws and regulations concerning the activity of religious organizations in Uzbekistan.

342. With regard to the Evangelical Baptist Church in Khalkabad village, Pap district of Namangan Province, the Government indicated that it had not applied for registration with the justice department.

343. The Government also informed the Special Rapporteur that the Evangelical Baptist Church in Urgench City, Khorezm, had systematically violated laws and relevant documents in the course of its activity. It received numerous notifications and warnings from the local justice department and as well as from the governing board and headquarters of the Evangelical Baptist organization of Uzbekistan. However, the Khorezm Church ignored them all. It continued to violate laws and regulations, including those concerning the involvement of children in religious activities without the consent of their parents, establishing an unlawful library and disseminating illegal literature among children and other people and other violations of, in particular, the provisions of the Law on “Freedom of conscience and religious organizations”. Pastor Oleg Bader participated in the perpetration of these violations. On 27 November 2003, the Evangelical Baptist Church in Urgench City was fined five times the minimum monthly wage. The fine reportedly did not affect Mr. Bader directly but only his organization. Moreover, on 27 February 2004, the Justice Department of Khorezm Province decided to discontinue the registration of this organization and it was closed down.

Follow-up to previously transmitted communication

344. By letter dated 22 December 2003, the Government of Uzbekistan provided additional information in response to a communication sent by the Special Rapporteur

on 7 October 2003 regarding the activity of the unregistered Christian Evangelical Church in Andijan City.

345. The Government indicated that on 20 January 2003, Bakhtier Tuichiev submitted a formal request to the Municipality of Andijan City for the opening of a Christian Evangelical Church. On 31 January 2003 the Municipality of Andijan City rejected the request due to the absence of formal documents by the relevant bodies (Architecture Office the regarding legal and postal address, the Health Office, the Fire Department and local self-governance office), in accordance with paragraph 2 of annex 1 to the Decision of the Cabinet of Ministers of the Republic of Uzbekistan of 20 June 2000 entitled "On the Order for Registration of Religious Organizations in the Republic of Uzbekistan". The Government finally indicated that there had been no unlawful activity by law enforcement bodies of Andijan Province with regard to Bakhtier Tuichiev.

General information received from the Government

346. By letter dated 2 March 2004, the Government of Uzbekistan provided various special rapporteurs with an aide-mémoire and information on several topics relating to human rights. The issue of freedom of belief and registration of religious organizations was addressed as follows:

"Representatives of various religions live in Uzbekistan and all the citizens are free to profess their religious beliefs. This is guaranteed by the Constitution and country's laws.

"The adoption of the Law on 'Freedom of conscience and religious organizations' in 1991 and its revision in 1998 resulted in a qualitative change in the role and legal status of religious organizations. The aim of this Law is to secure and guarantee the freedoms and rights of conscience and belief for everyone, to maintain equality among citizens regardless of their religious beliefs, and to regulate issues related to the activities of religious organizations.

"It is worth mentioning that in 1990 only 211 religious organizations were registered in Uzbekistan. Currently, more than 2,000 religious organizations are registered in Uzbekistan, 1,955 of them Islamic, 170 Christian, 7 Jewish, 6 Bahá'í communities, 2 Krishna consciousness communities and 1 Buddhist temple. All believers and religious organizations are free to set up and maintain international links and direct private contacts, including trips abroad for pilgrimage, participating in seminars and conferences.

"Since independence about 40,000 citizens of Uzbekistan have performed the pilgrimage to Mecca (big Haj) and 20,000 the small Haj (Umrah). It should be mentioned that during the whole period of Soviet rule the number of pilgrims from Uzbekistan was only 86 men. Over this period the number of mosques has increased from 89 to more than 2,000 thousand.

“There are an Islamic University, a Higher Clerical Institute, 10 Islamic madrasas and 2 seminaries in Uzbekistan, where representatives of the new generations pursue their education.

“Moreover, on 22 August 2003, the Cabinet of Ministers of the Republic of Uzbekistan issued Decree No. 364 on rendering of social assistance and privileges for further improvement of spiritual and educational work in the religious sphere and the realization of an action plan on the protection of the people, especially the youth, from the threat of religious terrorism.”

Observations

347. The Special Rapporteur would like to express her gratitude for the response sent by the Government and would like to recall that she has still not received a reply to her request for an invitation to visit the country.

Viet Nam

Communications and replies received

348. On 26 March 2004, the Special Rapporteur sent a communication to the Government of Viet Nam following up a previous communication of the Special Rapporteur of 7 October 2003 and the reply of the Government of 22 November 2003, regarding the case of Pham Van Tuong (alias Thich Tri Luc), who was sentenced to 20 months in prison on 12 March 2004 at a closed trial at the People's Court in Ho Chi Minh City which lasted less than one hour. His family was not informed of the trial until the day before. No lawyer was present for his defence. Pham Van Tuong had already spent 19 months and 15 days in prison on charges of “fleeing abroad in order to oppose the Vietnamese Government”. Thich Tri Luc had reportedly suffered over a decade of persecution for his support of the outlawed Unified Buddhist Church of Vietnam (UBCV).

349. By letter dated 6 April 2004, the Government of Viet Nam indicated that the information provided to the Special Rapporteur was not true and that it wanted to reassure the Special Rapporteur that in Viet Nam the rights to freedom of religion or belief and freedom of non-religion or belief are clearly enshrined in the Constitution and laws and are guaranteed in practice. Torture and other forms of inhumane treatment and punishments are strictly forbidden. No one is arrested and punished on religious grounds; only those who violate the law are treated in accordance with the law. Article 70 of the 1992 Constitution of Viet Nam clearly states: “The citizen shall enjoy freedom of belief and of religion; he can follow any religion or follow none. All religions are equal before the law.... No one can violate freedom of belief and religion; no one can misuse belief and religion to contravene the law of the State policies”. Article 71 of the Constitution also stipulates: “The citizen shall enjoy inviolability of the person and the protection of the law with regard to his life, health, honour and dignity.... It is strictly forbidden to use any forms of harassment and coercion, torture, [or] violation of his honour and dignity against a citizen”.

350. According to the Government's response, Thich Tri Luc, whose real name is Pham Van Tuong, born in 1954, resident in Dong Hoa commune, Di An district, Binh Duong province, used to be a Buddhist monk in temples in Dong Nai and Lam Dong provinces, Hue city and Ho Chi Minh City. In March 1999, Mr. Tuong returned to secular life and married Tran Thi Hoang Oanh, his second wife. On 26 July 2002, he was arrested at Tay Ninh frontier as he tried to cross the border illegally in an attempt to contact and coordinate with certain foreign organizations for activities against the State of Viet Nam. His trial had been scheduled to take place on 1 August 2003. However, for humanitarian reasons and at the request of his wife, the trial was postponed until 12 March 2004. The People's Court of Ho Chi Minh City brought Pham Van Tuong to trial for his acts in violation of article 91 of the Penal Code, namely "illegally fleeing the country in order to carry out acts against the State". Though his acts of violation of the Law could result in at least 36 months of imprisonment, the Court, considering his attitude of repentance and as a gesture of leniency, sentenced Pham Van Tuong to only 20 months of imprisonment. He was released on 26 March 2004 and is now leading a normal life with his family and expected to be resettled abroad by arrangements with UNHCR and honoured by the Government of Vietnam.

351. On 10 June 2004, the Special Rapporteur transmitted a communication to the Government regarding Thich Vien Dinh, a superior monk of Giac Hoa Pagoda in Ho Chi Minh City, who had reportedly been harassed by the Security Police and other authorities during the first weeks of May 2004, allegedly after he expressed his support of the illegal UBCV in a letter to the Government. In this letter, he reportedly called for the release of UBCV Patriarch Thich Huyen Quang, Thich Quang Do and all other members of the UBCV leadership who were reportedly arrested in October 2003.

352. It was reported that Thich Vien Dinh had been interrogated by the Security Police over two previous weeks, and that Security Police said they had received orders to expel the 40 monks residing in his pagoda. It was also reported that the Gia Dinh Electricity Company sent him a letter, which he received on 14 May 2004, stating that the electricity contract would be terminated and the electricity to Giac Hoa pagoda cut off unless he could produce a certificate proving that he was the pagoda's superior monk, as recognized by the State-sponsored Vietnam Buddhist Church (VBC), the only legal Buddhist organization in Viet Nam.

353. It was further reported that Thich Vien Dinh had been subjected to harassment and threats since he was appointed Deputy Head of the Institute for the Dissemination of the Faith (Vien Hoa Dao) at the UBCV Assembly in Nguyen Thieu monastery (Binh Dinh) on 1 October 2003. In particular, it was reported that he was placed under "administrative detention" by the local authorities on 9 October 2003, and that he was barred from leaving Ho Chi Minh City, even to fulfil his religious functions at the Thap Thap pagoda in Binh Dinh province, where he was appointed superior monk in 1995.

354. Thich Huyen Quang, Thich Quang Do and other UBCV senior monks were allegedly arrested in October 2003 when traveling to Ho Chi Minh City after holding

a peaceful UBCV assembly in Nguyen Thieu monastery to elect a new leadership. Thich Huyen Quang and Thich Quang Do were both accused of “possessing State secrets” and placed under house arrest in their respective monasteries in Binh Dinh and Ho Chi Minh City.

355. In the same communication, the Special Rapporteur referred to information according to which on 10 and 11 April 2004, on the occasion of Easter celebrations, between 10,000 and 30,000 Christian members of the Degar tribe reportedly gathered in the cities of Buon Ma Tuor, Kontum, Dalat, Phuoc Long and Plei Ku, as well as in other areas, to protest ongoing repression against hill tribes and violations of their human rights, including their right to freedom of religion, by the authorities. The demonstrations were allegedly violently suppressed by the Vietnamese authorities, causing an as-yet undetermined number of casualties. The exact casualty figures were reportedly difficult to assess, as it was reported that the authorities had barred access to the area by independent observers and had imposed a news blackout on hospital personnel. However, some reports mentioned that at least 10 Montagnards had been killed, including one from a gunshot wound in the head and others from beatings, and that hundreds were wounded.

356. It was alleged that security forces, supported by men in civilian clothes armed with metal bars, shovels, clubs with nails stuck in them, machetes and chains confronted Montagnard protesters in the area around Buon Ma Tuor, the capital of Dak Lak province, on the morning of 10 April, seeking to prevent them from reaching the main cities where protests were to be organized. The protesters, who were reportedly not armed, were said to have attempted to defend themselves by throwing stones at the security forces. Further reports indicated that hundreds of Montagnards had fled their villages and had gone into hiding.

357. By letter dated 14 July 2004, the Government of Viet Nam responded that the allegations and information provided to the Special Rapporteur in the letter concerning the situation in some areas in the Central Highlands of Viet Nam in April 2004 were sheer fabrications made up by elements hostile to Viet Nam.

358. According to the Government’s response, the truth was that, on 10 and 11 April 2004, some extremist elements in localities in Dak Lak and Gia Lai provinces, instigated and instructed by certain entities outside Viet Nam, especially by the Montagnard Foundation, led by Ksor Kok, a well-known bandit-turned-terrorist now living in the United States, carried out illegal demonstrations and created violent disturbances in the Central Highlands. On 9 April 2004, the so-called “Montagnard Foundation” in the United States issued an announcement that there would be demonstrations in the Central Highlands on 10 April with the participation of about 150,000 people. The organizers of the demonstrations spread rumours that those who participated would be allowed to emigrate to the United States and that, on the date set for the demonstrations, United Nations airplanes would be available at the demonstration site to take the demonstrators immediately to the United States. Elsewhere, they used money to urge the people to participate in the demonstrations and threatened to blacklist and punish those who would not do so.

359. The Government indicated that the extremists committed acts that caused public disorder. They used dangerous weapons to beat on-duty officers, causing serious injuries. They destroyed public works and property in some communes. More seriously, they even attacked some commune headquarters, and captured local officials. The Government thought that it was clear that these were acts aimed at causing grave public disorder, dividing people of the Central Highlands, damaging national unity and undermining Viet Nam's territorial integrity. In the face of such violent acts, law enforcement forces and law-abiding people had to take defensive action. According to the information provided by the Government, all information pointed to the fact that these extremists were incited and instigated from outside. Such acts seriously violated the laws and were thus intolerable in any country.

360. The local authorities have taken measures to stabilize the situation. People who had been deceived into taking part in the demonstrations were told the truth by the local authorities and provided with means of transportation to go back home. The local authorities hold in custody just the instigators, leaders and those who committed serious acts against public officers who were on duty. At present, life in these areas has returned to normal. Foreign tourists continue to visit the Central Highlands. Recently, officials from the Embassies of the United States, New Zealand, Canada and Norway in Hanoi, Vatican officials and foreign journalists had opportunities to visit the Central Highlands.

361. The Government further wished to reiterate the consistent policy of the State of Viet Nam to strengthen national unity and pay attention to improving, physically as well as spiritually, the lives of people from all social strata. The Prime Minister has approved the realization of the Socio-economic Development Programme for communes in extremely difficult circumstances and ethnic minorities in mountainous, border and remote areas, helping these areas get rid of poverty and backwardness and to fully integrate the indigenous people into the common cause of national development. The Programme has recorded fruitful outcomes over the past years. Basic infrastructure in mountainous areas has been built and improved significantly, which helps promote the development of a multisectoral economy. The economic structure in various areas has been transformed in the direction of commodity production, which gradually lays the basis for socio-economic development along the line of industrialization and modernization. Especially, remarkable progress has been seen in social and economic development and the improvement of people's physical and spiritual conditions in the Central Highland provinces. The rights of people of all ethnicities in the Central Highlands are guaranteed. Socio-economic programmes to meet the need for productive and housing land of ethnic minority people are actively implemented. Recently, the National Assembly has amended the Land Law, providing the local governments with a legal basis for addressing the issue and provide adequate land for cultivation and housing of the people. This task is given special attention in the Central Highlands provinces. Viet Nam's law ensures the right to freedom of religion and belief and non-religion and belief of all citizens, which is clearly enshrined in the Constitution and respected in reality. There is absolutely no question of the so-called "repression of Protestants". On the contrary, Protestants in the Central Highlands enjoy favourable conditions for religious practices. There are about 25 grass-roots Protestant groups in the Central Highland. On 13 April 2004, the Pay Ro Ngol A Ma Ron Protestant group was inaugurated in A Ma Ron commune, Ia Pa district, Gia Lai province.

362. With regard to the cases of Thich Quang Do and Thieh Huyen Quang, the Government informed the Special Rapporteur that at present, Thich Quang Do was neither under house arrest nor on administrative probation. He was leading a normal life and practising his religion as usual at Thanh Minh pagoda in Ho Chi Minh City.

363. Thich Huyen Quang (Le Dinh Nhan), born in 1917 in Binh Dinh, went to Hanoi in March/April for medical treatment at the K hospital (a health care centre specializing in cancer treatment), where he was well taken care of by leading physicians. Ten persons, including his personal nurse, were with him in the hospital during his treatment. During his stay in the hospital, Thich Huyen Quang requested to have a meeting with the Prime Minister. Such a meeting had taken place and Thich Huyen Quang expressed his deep appreciation and satisfaction for all the arrangements and the good-will and profound understanding demonstrated by the Prime Minister at the meeting. After the treatment in Hanoi, Thich Huyen Quang went back to Nguyen Thieu pagoda in Binh Dinh province where he is now living a normal life and practising his religion as usual.

364. Regarding the alleged case of Thich Vien Dinh, the Government indicated that the fact was that Thich Vien Dinh (or Nhu Van Trung), born in 1954, superior monk, resides at Giac Hoa pagoda, 1517 No Trang Long, Binh Thanh district, Ho Chi Minh City. On 20 May 2004, in implementing the General Electricity Corporation's policy of signing business contracts with all its clients, a staff member from Gia Dinh Electricity Company went to Giac Hoa pagoda and met Thich Vien Dinh, the self-proclaimed representative of the pagoda, to discuss with him the signing of a contract for the sale of electricity for the pagoda. Thich Vien Dinh was requested to submit a photocopy of his residence certificate, as required by law for signing a contract. This is a normal practice. It was agreed that the contract would be signed the next day. However, on 21 May, Dinh refused the contract and claimed that the electricity company was intentionally hindering the activities of Giac Hoa pagoda. Furthermore, Dinh slanderously alleged that the administration was attempting to take revenge on those pagodas that are not members of the Vietnam Buddhist Church Council.

365. The Government indicated that Thich Vien Dinh has acted unreasonably with the electricity supply company and made use of the incident to make groundless and slanderous accusations against the Government. However, Thich Vien Dinh till then was neither subjected to any interrogation, harassment, threat, nor was he placed under any kind of administrative detention. The electricity supply to Giac Hoa pagoda remains normal.

366. On 10 November 2004, the Special Rapporteur sent a communication to the Government of Viet Nam regarding the following allegations.

367. *Mennonites.* It was reported that Nguyen Hong Quang, General Secretary of the Mennonite Church in Ho Chi Minh City, was arrested on 8 June 2004 by security police in Ho Chi Minh City after criticizing the arrest of several of his associates, who had been arrested on 2 March. Furthermore, reports indicate that in late September a Mennonite chapel in Kontum province was demolished by government forces. In the

morning of 24 September, hundreds of officials, including paramilitary police from Unit 113, descended on the chapel and the home of Pastor Nguyen Cong Chinh in Kontum province. The attack marked the second time the chapel was destroyed this year (a first attack was reported on 16 January). In the September attack, Government officials confiscated Pastor Chinh's property and farm animals, set fire to the house and chapel, and then used two bulldozers to flatten the remains. Pastor Chinh was out on a pastoral visit at the time, but his wife and children were arrested by officials and detained at Vinh Quang district headquarters.

368. *Montagnards/Degars*. According to information received, on 14 September 2004, at around 9 a.m., paramilitary police from Dak Doa district arrested Christian believers in Go-Lar commune, Dak Doa district, Gia Lai province, to try to force them to convert to the Government-approved Evangelical Church of Vietnam. The Christians were taken to Dak Doa district prison by jeep. They are presently being held in jail in Dak Doa district. Among them are Wui, Grac, Blu, Ayuh, Hlou and Pri.

369. On 27 September 2004, at around 7 a.m., the district paramilitary police of Xa Thai commune ordered five Montagnard Christians to report to the communal committee of the commune of Ia Sion. They were allegedly tortured because they were Christians who refused to join the Government-approved Evangelical Church of Vietnam. The five Montagnards were later released.

370. On 5 October 2004, at around 6 a.m., the paramilitary police of Cu Se district arrested nine Montagnard Christians at the village of Ia Ko, Cu Se district, Gialai province. At the time of the communication, the whereabouts of these nine Montagnard Christians were unknown. Their names are Siu Tan, Kpuih Cur, Kpuih Plem, Kpuih Phe, R'mah Hrot, Siu Ablem, Siu Bop, Siu Nuai and Siu Nam.

Observations

371. The Special Rapporteur is grateful for the details provided in the reply sent by the Government and wish to underline that, as mentioned in her general report (E/CN.4/2005/61), she carries out a close and detailed assessment of the information in order to ensure that the reliability of the situations or cases that are transmitted to the Governments have is very high.

372. Moreover, the Special Rapporteur notes that her concern was also expressed by the Human Rights Committee on the occasion of its most recent concluding observations on Viet Nam (CCPR/CO/75/VNM). The Committee noted the following:

“In the light of information available to the Committee that certain religious practices are repressed or strongly discouraged in Viet Nam, the Committee is seriously concerned that the State party's practice in this respect does not meet the requirements of article 18 of the Covenant. The Committee is deeply concerned by allegations of harassment and detention of religious leaders and regrets that the delegation failed to provide information relating to such allegations. In this context, the Committee is concerned at the restrictions placed on outside observers who wished to investigate the allegations. The State party is requested to provide the Committee with up-to-date information

about the number of individuals belonging to various religious communities and the number of places of worship, as well as the practical measures taken by the authorities to guarantee the freedom of exercise of religious practice”.
