



**General Assembly**

Distr.  
GENERAL

A/HRC/11/6/Add.1  
26 May 2009

ENGLISH/FRENCH/SPANISH  
ONLY

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HUMAN RIGHTS COUNCIL  
Eleventh session  
Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,  
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL, INCLUDING  
THE RIGHT TO DEVELOPMENT**

**Report of the Special Rapporteur on violence against women,  
its causes and consequences, Yakin Ertürk\***

**Addendum**

**COMMUNICATIONS TO AND FROM GOVERNMENTS\*\***

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\* The report was submitted late in order to reflect the most recent information.

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

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## **I. INTRODUCTION**

1. The Commission on Human Rights, in its resolution 2005/41 entitled “Elimination of violence against women”, encouraged the Special Rapporteur on Violence against Women, its causes and consequences (hereinafter “the Special Rapporteur”) to respond effectively to reliable information that comes before her and requested all Governments to cooperate with and assist the Special Rapporteur in the performance of her mandated tasks and duties, to supply all information requested, including with regard to implementation of her recommendations, and to respond to the Special Rapporteur’s visits and communications.

2. The present addendum to the Special Rapporteur’s annual report contains, on a country by country basis, summaries of individual allegations, as well as urgent appeals sent to Governments on individual cases and general situations of concern to her mandate. This report includes summaries of the communications sent from 5 December 2007 to 28 February 2009 (with respect to allegation letters), and from 5 January 2008 to 02 April 2009 (with respect to urgent appeals). The report also contains summaries of government replies received until 30 April 2009.

3. The Special Rapporteur recalls that in issuing urgent appeals and transmitting allegations, she does not make any judgment concerning the merits of the respective cases, nor does she necessarily support the opinions and activities of the persons on behalf of whom she intervenes. The names of individual victims and alleged perpetrators have been replaced by initials in order to protect the privacy and prevent further victimization of the former and to prevent undue judgement of the latter. In the original communications, the full names of victims and perpetrators have been provided to the Government concerned.

## **II. OVERVIEW OF COMMUNICATIONS**

### **1. Communications sent**

4. From 5 December 2007 to 02 April 2009, the Special Rapporteur transmitted 93 communications to 34 Member States: Afghanistan, Bahrain, Brazil, Canada, Colombia, Democratic Republic of the Congo, Democratic People’s Republic of Korea, Egypt, Ethiopia, France, Guatemala, Honduras, India, Iran, Iraq, Ireland, Kyrgyzstan, Malaysia, Mexico, Myanmar, Nepal, Nicaragua, Norway, Pakistan, People’s Republic of China, Philippines, Papua New Guinea, Saudi Arabia, Somalia, Sudan, Tunisia, United Arab Emirates, United Kingdom, Zimbabwe. A total of 37 communications (which represents 40 %) were sent to five States alone, i.e. Iran, Pakistan, India, Mexico and Sudan.

5. A total of 51 communications are allegation letters pertaining to allegations of human rights violations that had already occurred or reflect longstanding concerns. In 42 cases, the Special Rapporteur sent an urgent appeal because a human rights violation was ongoing or imminent, and there was a need to inform the government authorities about the allegations received without any delay.

6. 80 out of 93 communications were sent jointly with other mandate holders of the Human Rights Council, as follows:

- The Special Rapporteur on the situation of human rights defenders (41)
- The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (30)
- The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (25)
- The Special Rapporteur on the independence of judges and lawyers (14)
- The Special Rapporteur on extrajudicial, summary or arbitrary executions (9)
- The Working Group on Arbitrary Detention (8)
- Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (5)
- The Special Rapporteur on the right to education (3)
- Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (3)
- The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2)
- The Special Rapporteur on freedom of religion or belief (2)
- The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (2)
- The Special Rapporteur on the human rights of migrants (1)
- The independent expert on minority issues (1)
- The Special Rapporteur on the sale of children, child prostitution and child pornography (1)
- The Special Rapporteur on the Right to Food (1)
- The Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (1)
- The Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights (1)

- The Independent Expert appointed by the Secretary-General on the situation of human rights in Haiti (1)
- The Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation (1)

7. The largest number of joint communications were sent together with the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. The Special Rapporteur notes that this fact indicates that the reporting of the forms of human rights violations experienced by women converge with that of more conventional forms of violations. However, the complaints contained in this report are not representative of the full range of human rights violations women encounter in different parts of the world.

## **2. Cooperation and replies of Governments to the Special Rapporteur**

8. In each of the communications, the Special Rapporteur has asked Governments to respond to a detailed set of questions in order to clarify the allegations submitted. The Special Rapporteur remains concerned that only 19 Governments out of the 34 concerned replied to communications sent to them. The Special Rapporteur expresses her appreciation to have received 38 responses during the period under review, and wishes to thank the Governments of China, Turkey and the United States of America for their responses to earlier communications sent between 2005 and 2007.

9. The following Member States did not respond to any of the communications that the Special Rapporteur sent during the period under review: Afghanistan, Brazil, Colombia, Democratic Republic of the Congo, Honduras, Iraq, Malaysia, Myanmar, Nepal, Norway, Papua New Guinea, Somalia, Sudan, and the United Kingdom.

10. In this regard, the Special Rapporteur would like to recall Commission on Human Rights resolution 2005/41 in which the Commission requested all Governments to cooperate with and assist the Special Rapporteur in the performance of her mandated tasks and duties and to supply all information requested, including with respect to the Special Rapporteur's communications.

### **III. COMMUNICATIONS SENT AND GOVERNMENT REPLIES RECEIVED**

11. The communications contained in this report are provided in the original language submitted or received, with the exception of government replies for which a translation was required. In some cases the Special Rapporteur provides suggestions on which additional information is required to respond effectively to the information received or draws the attention of Governments concerned to relevant findings and recommendations contained in her country mission reports and international human rights instruments.

## Afghanistan

### Allegation letter

12. On **24 April 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right of freedom of opinion and expression sent an allegation letter to the Government concerning Ms. K. A., deputy editor-in-chief of *Radio Faryad* and producer of a talk-show about political and social issues in Afghanistan.

13. According to the information received, on 11 April 2008, unidentified gunmen carried out a grenade attack against Ms. K.A.'s home in Herat province. Over the past two months, she had been receiving anonymous calls in which she was warned to leave her job. On 6 April, in a similar grenade attack, part of her home was destroyed. According to sources, this attack could be part of efforts by hard-line groups to constrain the media, particularly in relation to the role of women as journalists and their right to work in the media.

### Urgent appeal

14. On **22 May 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right of freedom of opinion and expression sent an urgent appeal concerning the situation of Mrs. N. H., presenter of the local public television station, *Heart TV*.

15. According to the information received, on 14 May 2008, Ms. N. H. was injured on her way to the TV station by two men and a woman armed with a knife. They put her in a taxi and accompanied her to her office, warning her that "if [she does] not resign, the next time will be the end". This incident was preceded by several threatening phone calls.

16. On 15 May, Ms. N. H. was stabbed in her home in Herat by an unidentified woman. She was taken to a hospital and discharged on the same day. Since then, she has continued receiving death threats, and has repeatedly changed residence. Despite her appeals for help, Ms. N. H. did not receive any police protection.

17. In early May 2008, following threats from unidentified individuals to all public radio and TV employees, 13 male and female journalists resigned.

18. Serious concern was expressed for the physical and psychological integrity of N. H. Further concern was expressed that the abovementioned acts of harassment against N. H. may be related to her exercise of the right to freedom of opinion and expression. Finally, concern was also expressed that this more recent physical attack could be part of efforts by hard-line groups to constrain the media, particularly in the Herat province, mainly in relation to the role of women as journalists and their right to work in the media.

### Allegation letter

19. On **14 August 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the situation of human rights defenders,

and the Special Rapporteur on the independence of judges and lawyers sent an allegation letter to the Government concerning Ms. M. A., member of the *Afghan Women's Skills Development Centre (AWSDC)*, a non-governmental organization (NGO) dedicated to reducing the suffering of Afghan women and children through rehabilitation and development projects and the promotion of peace.

20. According to information received, on 21 July 2008, Ms M. A. went to the Attorney General's office with a client who had been summoned there. In an argument with the women, the Attorney General claimed that the AWSDC supported prostitutes and that its members must pay the price for this. Ms M. A. was detained for three hours. No reason was given for her detention.

21. Concern was expressed that the detention of Ms M. A. may be related to her legitimate and peaceful activities to defend women's rights in Afghanistan.

### **Observations**

22. The Special Rapporteur regrets that the Government of Afghanistan did not reply to any of the above communications sent during the period under review.

23. The Special Rapporteur reiterates her interest in receiving responses from the Government in regard to the allegations submitted and would be particularly interested to know whether these cases have resulted in any prosecutions of alleged perpetrators.

24. The Special Rapporteur would like to recall the recommendations contained in her report following her visit to Afghanistan in July 2005, which she considers to be still valid.

## **Bahrain**

### **Allegation letter**

25. On **26 August 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the independence of judges and lawyers sent an allegation letter to the Government regarding current judicial practices in relation to family matters and the absence of a Family Code in the Kingdom of Bahrain, with implications for women's ability to enjoy family rights upon divorce and leave abusive relationships.

26. The Special Rapporteur noted that in the absence of a family code, judges seemed to appear to decide cases according to their personal interpretation of Shari'a, often favouring men.<sup>1</sup> In this regard, the Committee against Torture cited the broad discretionary powers of Shari'a courts in the application of the law to cases relating to personal status cases and recommended that Bahrain adopt a Family Code.<sup>2</sup>

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<sup>1</sup> A/HRC/4/34/Add.1, paragraph 62.

<sup>2</sup> CAT/C/CR/34/BHR, paragraph 6-7.

27. The Special Rapporteur brought to the attention of the Government, the case of Ms. S. A-M., a Bahraini citizen, divorced from her husband, with whom she had a daughter. When the girl reached seven years of age, her father filed a case at a Shari'a Court to obtain the guardianship of his daughter. It is reported that according to Shari'a Law, guardianship of a child who reaches seven is transferred from the mother to the father.

28. Through the help of a lawyer, Ms. S. A.-M. filed a case at the First Level Shari'a Court n° 3, Jaffaria Division. Hearings between Ms. S. A-M. and her ex-husband were held on 6 May, 20 May and 15 June 2008. The next hearing was fixed for 7 September 2008.

29. Both parties had reached an informal agreement at the end of June for the mother to keep the daughter, with an increased number of visits by the father. However, during the hearing held on 29 June 2008, Ms. S. A.-M.'s ex-husband allegedly refused any agreement.

30. It is reported that Ms. S. A- M. approached the Supreme Council for Women in April 2008, seeking legal aid and support. She filed a case (n° 365) but since then has never heard back from the Supreme Council.

31. Ms. S. A-M had also contacted the brothers and sisters of her ex-husband, who confirmed her allegations that he is mentally unstable. She also alleged that her ex-husband had sexually abused the child when she was 3 years old. She apparently has a medical certificate attesting to the abuse.

32. It is reported that Ms. S.A-M. contacted the Child Protection Unit within the Ministry of Social Affairs. This Unit promised to provide an independent report to the Shari'a Court, based on observations and assessment of living standards at her home as well as at that of her ex-husband. It is however alleged that judges of Shari'a Courts are not obliged to follow any of the recommendations of the report.

33. Concerns were expressed that the guardianship of that child could not be decided upon based on objective criteria, which take into account the best interests of the child and consider both parties equally.

### **Reply from the Government**

34. On **21 October 2008**, the Government replied to the letter sent on 26 August 2008. It stated that on 29 January 2001, the husband of **Ms. S. A-M.** filed a suit against his wife before the competent (Shari'a) court, in which he demanded that his wife return to the marital home. According to the Government, Ms. S. A- M. filed two counter-suits before the competent (Shari'a) court, petitioning for a divorce from her husband. The court decided to join the latter two suits to the one filed by the husband.

35. The Government maintained that the court delivered several other relevant rulings. In the case in which the wife (Ms. S. A- M.) petitioned for a divorce from her husband, a judgement was delivered granting the wife a divorce. In the case in which the husband demanded his wife's (Ms. S. A- M.) return to the marital home, the court issued a judgement dismissing the petition

on the grounds that the divorce rendered it void. In the case in which the wife (Ms. S. A- M.) petitioned for payment of the deferred part of the marriage gift (mu'akkhar al-sadaq), the matter was referred to the competent Shari'a court.

36. The Government moreover indicated that on 1 February 2006, the husband filed an appeal against the decision of the court to grant a divorce to Ms. S. A-M. On 20 May 2006, a judgement was issued dismissing the appeal. On 22 April 2008, the husband filed a suit, petitioning for custody of his daughter and an annulment of the maintenance payment arrangement. Ms. S. A-M. filed a counter-suit asking to be allowed to retain custody of the child, and to continue to receive maintenance payments. The court decided to consider both cases together and set a date of 28 October 2008 for the hearing.

37. The Government of Bahrain further informed the Special Rapporteur that, with regard to the abduction of the child by the father, a judgement was issued finding the husband guilty of abducting the child, ordering him to pay a 200 dinar fine and granting the mother (Ms. S. A- M.) the right to retain custody of the child.

38. The Government also asserted that the legal procedures followed by the court in deferring sessions, hearing the testimony of both parties and the witnesses, and assessing the documentary and other evidence, were based on its competence and knowledge of the specific nature of Shari'a cases, together with its assessment of the actual damage in the case. The court furthermore acted in conformity with the rules set out in the Code of Procedures issued by Decree Law No. 26 of 1986, concerning the Shari'a courts.

39. Concerning the regulations applied by the Shari'a courts on the guardianship of children upon divorce, the Government stressed that the courts followed the rules of the Islamic Shari'a in cases referred to them by the Sunni and Ja`fari divisions, and were essentially guided by the best interests of the child, which constituted the basis of all measures taken in accordance with the Islamic Shari'a and the Convention on the Rights of the Child.

40. Moreover, concerning the adoption of a family code, the Government of Bahrain stated that the Ministry of Foreign Affairs and the bureau of the United Nations Development Programme (UNDP) in the Kingdom had signed a project document (on 28 July 2008) to support an action plan to follow up on the implementation of the Government's voluntary commitments and pledges to the Human Rights Council.

41. The Government further stated that in July 2008, a committee was set up to oversee the implementation of the commitments and voluntary human rights pledges made by the Kingdom in connection with the universal periodic review report.

42. Finally, the Government presented a timetable for the development of a draft law on the family, and a process to ensure its adoption and implementation with the assistance of governmental and non governmental stakeholders that are members of the committee.

### **Observations**

43. The Special Rapporteur would like to thank the Government of Bahrain for its reply to her communication of 26 August 2008.

## **Brazil**

### **Allegation letter**

44. On **12 January 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the question of torture sent an allegation letter to the Government concerning Ms. L. A. B., a 15-year-old girl who was sexually abused while in detention.

45. According to the information received, in October 2007, Ms. L. A. B. was arrested on suspicion of petty theft and placed in pre-trial detention in the city of Abaetetuba, Pará State. For a period of 26 days she was held in a police cell with about 20 adult male prisoners. Ms. L. A. B. was reportedly raped by several co-prisoners during this time.

### **Observations**

46. The Special Rapporteur regrets that the Government of Brazil did not reply to this communication. The Special Rapporteur reiterates her interest in receiving responses from the Government in regard to the allegation submitted and would be particularly interested to know whether this case has resulted in any prosecutions of alleged perpetrators and investigations as to detention practices by relevant authorities.

## **Canada**

### **Allegation letter**

47. On **14 March 2008**, the Special Rapporteur on violence against women, its causes and consequences, sent an allegation letter to the Government regarding acts of ritual abuse in Canada, as shown in the case of Ms. A. C., a Canadian female university student, born 8 October 1984.

48. According to the allegations received, A. C. claimed that she had been - and still was - victim of “ritual abuse-torture” (*sic*) both within her family and by a group of persons unknown to her. Her father, W. C., and mother, J. C., abused her physically and sexually at home. Her father also brought her to “ritual abuse-torture” meetings, where members of the group abused and tortured her, both alone and in front of others. Amongst the perpetrators were also her grandparents, D. and D. W., and other persons, some of which she recognised as being members of a local Mormon church her family used to go to, and others unknown to her.

49. The alleged ritual abuse-torture took place in various places around Calgary in the province of Alberta and in Toronto, Ontario. During one of the meetings Ms. A. C. was required to attend, she was forced to prematurely give birth to her baby, whose body was used as an object of the group rituals.

50. Ms. A. C. attempted to report her abuse to the police in Toronto and in Calgary between 2002-2007 but allegedly she was never believed and no report was taken. Allegedly, the police told her there would probably be no evidence or treated her as if she was crazy. She also

tried to talk to nurses and doctors in the places she was hospitalized several times between 2001 and 2005 for depressiveness and suicidal tendency, but without any result. Thus, according to the information received, no action, investigation, or protection measures were taken by any authorities.

51. Apparently Ms. A. C. also attempted to run away as a child, was placed in foster care, but was always returned to her family where she was continuously abused. Ms. A. C. affirms she has been dealing with frustration, isolation and hopelessness all her life, because of the refusal of government agencies and social and health professionals to assist her.

52. In 1993, the final report of the Canadian Panel on Violence against Women, (Changing the landscape: Ending violence ~ Achieving equality; Catalogue No. SW45-1/1993; Ottawa: Minister of Supply and Services Canada), which provides comprehensive documentation on violence against women in Canada from a variety of perspectives and makes recommendations for government and private-sector action at all levels, informed the Canadian government that action needed to be taken to protect women and children from “ritual abuse and torture” which according to the Panel’s report was occurring in every region of Canada. The Panel also referred to Ms. A. C.’s case among others. However, according to the information received, no action had been taken to address the alleged abuses.

### **Reply from the Government**

53. On 29 July 2008, the Government replied to the letter sent on 14 March 2008. It stated that the lack of specific information in the allegation letter made it difficult to find relevant information.

54. The Canadian Government said that an initial search for details concerning Ms. A. C. or her case yielded no information, proof that her allegations were not in the public domain. According to the Government, her details did not appear in any search of public records such as the popular press, the internet or any court case involving the allegations contained in the complaint.

55. The Government informed the Special Rapporteur that the information concerning allegations by Ms. A. C. could not be confirmed by Canada without a search of protected personal information contained in Government records or the records of other public or private entities and persons, protected by legislation on privacy and the protection of personal information.

56. Furthermore, the Government stressed that the allegations regarding the lack of response by the police and medical and other professionals into ritual abuse or other forms of violence against women required an investigation into matters which lie at the core of personal information. The laws of both Alberta and Ontario were such that written consent was required from the complainant before relevant information could be collected and shared.

57. The Canadian Government, therefore, asked the Special Rapporteur to attempt to obtain the express signed consent of the complainant in respect of information held by relevant

identities or persons. The Government provided assurances that if and when the signed consent forms were received by Canada, an investigation into the allegations of the complainant could begin in earnest.

58. The Government's reply also contained two excerpts taken from decisions of Canadian courts concerning descriptions of ritual abuse.<sup>3</sup> Reference to a third case was also made, where nine people, including five police officers, were arrested on more than 150 child abuse charges.<sup>4</sup>

59. Finally, the Government provided as Annex a document outlining legislative, regulatory and other measures against ritual abuse in the Province of Ontario (including the Domestic Violence Action Plan; Child and Family Services Act; and initiatives undertaken by the Ministry of the Attorney General and of the Ontario Women's Directorate).

#### **Allegation letter (follow-up to 29 July 2008 response from the Government)**

60. On **17 November 2008**, the Special Rapporteur on violence against women, its causes and consequences, sent a follow-up letter to the Government regarding Ms. A.C., and her complaint of having been victim of 'ritual abuse-torture'.

61. As suggested by the Government, the Rapporteur contacted Ms. A. C., who, after a period of reflection, decided to sign the consent forms on the disclosure of personal information that the Government had submitted.

62. As an accompaniment to each consent form, Ms. A. C. expressed fears over the future conduct of an investigation and what it may reveal. She also expressed strong concerns over how the suffering she faced was considered. Ms. A. C. expressed her hopes that her suffering be acknowledged as "ritual abuse-torture" and not "Satanic rituals", as discussed in one of the court's decisions recalled by the Government in its reply. Ms. A. C. believed that the commonly used term "ritual abuse" did not adequately describe the violent acts she had endured.

63. In this respect, the Special Rapporteur drew the Government's attention to the different forms of gender-specific violence which could amount to torture, referring to the last report to the Human Rights Council of the Special Rapporteur on the question of torture (A/HRC/7/3), as well as to the Convention against Torture.

#### **Observations**

64. The Special Rapporteur would like to thank the Government of Canada for its reply to her communication of 14 March 2008. The Special Rapporteur hopes to receive a more comprehensive response following her follow-up letter sent on 17 November 2008, and would be particularly interested to know whether this case has resulted in any prosecutions of alleged perpetrators and whether the victim has been granted reparation.

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<sup>3</sup> *Nova Scotia (Minister of Social Services) v. Everly et al.*, [1990] N.S.J. No. 574 and *Children's Aid Society for the Districts of Sudbury and Manitoulin v. G.M.*, [1991] O.J. No. 832.

<sup>4</sup> *R. v. Sterling*, [1995] S.J. No. 612 (Sask.C.A.).

## Colombia

### Llamamiento urgente

65. El **5 de septiembre de 2008**, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con la Relatora Especial sobre la situación de los defensores de los derechos humanos enviaron un llamamiento urgente al Gobierno de Colombia en relación con un ataque contra la Sra. L. F. M. R., integrante de la *Fundación Esperanza y Dignidad*. Esta organización defiende los derechos humanos de las mujeres y las niñas.

66. La Sra. L. F. M. R. supuestamente se ha visto obligada a desplazarse a diferentes regiones de Colombia a raíz de amenazas en su contra. Según se nos informa, las Águilas Negras la habían declarado objetivo militar, había recibido amenazas telefónicas y por correo electrónico, y sus hijos también habían sido amenazados.

67. De acuerdo con las informaciones recibidas, el 21 de agosto de 2008, la Sra. L. F. M. R. habría sido atacada por dos desconocidos en un parque en Bogotá cuando iba a una oficina de Bienestar Familiar para recoger unos documentos. Uno de los desconocidos la habría agarrado y habría presionado un arma de fuego contra su costado. Mientras tanto, el otro habría intentado pincharla con una aguja hipodérmica. El que llevaría el arma de fuego habría preguntado a la Sra. L. F. M. R. si quería morir allí cuando ésta habría intentado soltarse, y el otro la habría pinchado tres veces con la aguja, inyectándole un líquido desconocido. Los desconocidos la habrían empujado y le habrían advertido que le quedaban doce horas de vida. Luego la Sra. L. F. M. R. habría ido a un hospital donde habría recibido asistencia médica y psicológica.

68. La Relatora Especial ha expresado preocupación que el ataque y las amenazas contra la Sra. L. F. M. R. podrían estar relacionados con sus actividades legítimas en la defensa de los derechos humanos de las mujeres y las niñas. También se expresa preocupación por la integridad física y psicológica de la Sra. L. F. M. R. y la de su familia.

### Observations

69. La Relatoria Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, lamenta no haber recibido respuesta a su comunicación de 5 septiembre de 2008 en el momento de la finalización del presente informe y reitera su interés en recibir respuestas en relación con las alegaciones sometidas.

70. The Special Rapporteur regrets that the Governments of Colombia did not reply to her communication of 5 September 2008, and reiterates her interest in receiving a response from the Government in regard to the allegations submitted.

## Democratic People's Republic of Korea

### Urgent appeal

71. On **2 April 2009**, the Special Rapporteur jointly with Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of

human rights defenders, and the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, sent an urgent appeal to the Government regarding U.S. citizens Ms. L. L. and Ms. E. L., journalists with the San Francisco based online television station *Current TV*.

72. According to information received Ms. L. L., Ms. E. L. and their cameraman Mr. M.K. were arrested on 17 March 2009 by North Korean authorities on the border between North Korea and China. They were on a reporting assignment to investigate the alleged trafficking and sale of women from North Korea into China. It is not clear whether Ms. L. L. and Ms. E. L. were arrested on North Korean territory. Several sources suggest that North Korean border guards may have crossed the Tumen river (that forms the border) while they were filming on the Chinese bank.

73. Ms. L. L. and Ms. E. L. are currently being held in Pyongyang on charges of entering North Korea "illegally" and of carrying out "hostile activities". If convicted they face a sentence of up to 10 years of forced labour. A Swedish diplomat has been allowed to visit them in Pyongyang. Mr. M. K. who managed to escape from the North Korean border guards, was detained for several days by Chinese authorities before being deported. Their guide, a Chinese citizen of North Korean origin, is reportedly still being detained by the Chinese police.

#### **Reply from the Government**

74. On **8 April 2009**, the Government replied to the letter sent on 2 April 2009. It stated that the Government did not feel the need to respond to such a communication as it considered it an attempt to instruct a sovereign state on what it should do based on distorted information. The Government added that the two American reporters were detained on 17 March 2009 as a result of their hostile acts and illegal entry into DPRK territory by crossing the DPRK-China border. It further said that while the investigation was under way, consular contacts were allowed and the detained were treated in accordance with relevant international law.

#### **Observations**

75. The Special Rapporteur would like to thank the Government for its prompt reply and invites the Government to regularly update the Rapporteurs on the progress and findings of the investigation.

### **Egypt**

#### **Allegation letter**

76. On **16 May 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of expression, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the situation of human rights defenders sent an allegation letter to the Government regarding Ms. M. A., a medical professional with the El Nadim Centre for Psychological management and Rehabilitation of Victims of Violence, an organisation that assists victims of torture and violence.

77. According to the information received, on 30 April 2008, Ms. M. A. was physically assaulted by a police officer in a courtroom in the town of Kafr El Dawwar, in the district of Beheira. She suffered a broken shoulder, as well as injuries to the head. She lost consciousness for thirty minutes.

78. The assault occurred after Ms. M. A. had testified in a case concerning members of a local family who allegedly had been subjected to torture by local police. On the morning of 30 April 2008, El Nadim Centre had released a statement calling for an investigation into the allegations of torture and other ill-treatment of members of the S. M. S. H. family by the local police in Kafr El Dawwar.

79. After the assault, the police officer who attacked Ms. M. A. was taken into custody. He later stated that he had been following the orders of Chief intelligence officer Mr. A. M. of the Kafr El Dawwar police.

80. During the hearing, the car of Ms. M.H.I.H., another psychiatrist at the El Nadim Centre, which was parked outside the courtroom, was vandalized under circumstances that were not clear.

81. Concern was expressed that the assault against Ms. M. A. could have been related to her legitimate and non-violent work in the defense of human rights, in particular her work to defend the rights of victims of violence and torture. Concern was expressed for the physical and psychological integrity of Ms. M. A. as well as that of all members of the El Nadim Centre.

### **Reply from the Government**

82. On **25 July 2008**, the Government replied to the letter sent on 16 May 2008. It stated that while domestic mechanisms continued to consider the complaint and were impartially reviewing the allegations of the different parties and the evidence at their disposal, it was for the Egyptian courts to have the final say on the parties' allegations.

83. The Government of Egypt stated that the State had safeguarded the rights of all the parties throughout every phase of the investigation. It offered assurances that, should the police officer identified by the victim be proven to be involved in the commission of the offence, the State would take rigorous action to deal with the situation through the courts and through internal monitoring and disciplinary mechanisms. The Government also committed itself to inform the Special Rapporteur on any new developments on the case.

84. The Government stated that the police lieutenant in charge of criminal investigations at the Buhairah Security Department said, when questioned, that on 30 April 2008, Ms. M. A. had gone to the hearing without first notifying the judicial or police authorities and without informing the persons in charge of security for the court building and for the defendants in the case. He said that as the victim was heading for the staircase of the court, the accused, A. A. I., had grabbed her handbag. However, when she had called out for help, the accused had let go of her handbag and she had fallen over, injuring herself.

85. The Government also stated that the police lieutenant said that a number of persons had managed to catch the accused and had then assaulted and injured him. He added that the investigation had not found any link between the accused and a member of the Kafr al-Dawwar police force. He also said that an inquiry was being conducted to identify those responsible for vandalizing Ms. M.H.I.H.'s car. Further, the Government added that the police lieutenant stated that there was no truth to Ms. M. A.'s statements about the accused stealing papers or documents; the accused had let go of her handbag when passers-by had chased and finally caught him.

86. Moreover, the Government added that, when questioned, the second victim, Ms. M. H. I. H. (the owner of the car that was vandalized), said that on the date of the incident she had driven Ms. M. A. in her car to the appeal hearing at Kafr al-Dawwar Court. She had parked her car outside the court building and she and her passenger proceeded to enter the court room. Upon entering the room, she had seen the officer identified by the first victim and sensed that two persons were there watching them. Later, as she was leaving the room, she heard a voice calling for help and she found her friend lying unconscious with a wound above her right eyebrow. She ran out to fetch her car only to find that the front and back tires and the right-hand mirror had been vandalized. She did not know who was responsible for the damage but blamed the aforementioned officer for inciting a person to vandalize her car, because the El Nadim Centre had threatened him in the press with imprisonment.

87. The Government further detailed the actions that had been taken, including: the issuance of a medical report on the victim, a medical report on the accused A. A. I.; the examination of the car by the Department of Public Prosecutions; the signed medical report by the accused A.A. I. indicating the date on which his injuries had occurred, what had caused them and how they had been inflicted, as well as the events leading up to the incident; the signed medical report by Dr. M. M. A. indicating the date on which the injuries had occurred, what had caused them and how they had been inflicted, as well as the events leading up to the incident; the decision by the Department of Public Prosecutions to place A. A. I. in custody for four days pending further investigations, which was then extended by a further 15 days by the court.

88. Furthermore, the Government of Egypt said that at a hearing held on 17 May 2008, the Misdemeanours Court decided to release the accused, A. A. I. on condition that he provide his address and declare that he was not being sought for any other offence. On the same day, the Department of Public Prosecutions appealed the decision. The appeal was heard on 18 May 2008. The court accepted the appeal as being in good and due form but decided on the merits to uphold the decision to release the accused, on condition that he was not being sought on another count. Finally, the Government stated that the investigators were still questioning M. A. A.S., a lawyer, and H. Q., a journalist, about the incident.

### **Observations**

89. The Special Rapporteur would like to thank the Government of Egypt for its reply to her communication of 16 May 2008.

## Ethiopia

### Allegation letter

90. On **5 March 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the question of torture sent an allegation letter to the Government concerning Ms. H. M. H., the 12-year-old daughter of Mr. M. H. A., a Djiboutian refugee.

91. According to information received, on 17 December 2007, Ms. H. M. H. was abducted by Mr. E. M., a 23-years-old Ethiopian, and his family. A complaint for abduction and confinement was lodged by Mr M. H. A.

92. Reportedly, E. M. raped H. M. H. during 17 days. In order to avoid that E. M. be charged with the rape and convicted, his uncle, a police commander, and one of his assistants, allegedly charged Ms. H. M. H. for the theft of a washing tab and detained her.

93. Allegedly, the victim was forced to admit the theft, to state she had no family, to change her name and to mention she was older (over 16) than she actually was, so as to utilize this wrong information in court. Ms. H. M. H. was detained at the Central Prison in Addis Abeba, together with adults, until 15 February 2008. On 24 December 2007, her father was finally informed of the situation. However, he was not allowed to visit his daughter before 26 January 2008.

94. The Ethiopian Embassy in Paris, which was contacted by mail by some organizations supporting Ms. H. M. H.'s father, orally replied that the girl was 16 and that she was the wife of a young Ethiopian. These facts have reportedly been proven false however, by her birth certificate and health card issued by an Ethiopian hospital, which state that she was born on 20 September 1995. Neighbours and her family have also declared that she was not married.

95. On 15 February 2008, H. M. S. was released. However, the investigation into the accusations against her concerning the theft was still ongoing.

### Allegation letter

96. On **21 January 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an allegation letter to the Government concerning the restrictions on human rights organizations in Ethiopia that may result from the adoption of the "Proclamation for the Registration and Regulation of Charities and Societies" (hereinafter: "the Proclamation").

97. The Proclamation was the subject of a previous urgent appeal sent on 17 July 2008, by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. No reply has been received to date from your Excellency's Government to that communication.

98. The Proclamation was adopted on 5 January 2009 by the Ethiopian Parliament. The adoption of the law was preceded by several months' negotiations during which the draft was subject to amendments. The Rapporteurs noted that while they considered the stated aim to enhance the transparency and accountability of civil society organizations as legitimate, they were of the opinion that the law in its current form would result in serious restrictions on the activities of NGOs working on a host of human rights issues. The strict implementation of the Proclamation would render it nearly impossible for many civil society organizations to carry out their work in Ethiopia.

99. The Proclamation establishes three categories of non-governmental organizations (referred to in the Proclamation as "charities" or "societies"): Ethiopian Charities or Societies; Ethiopian Residents Charities and Foreign Charities. The consequences of the new definitions are serious, as Foreign and Ethiopian Resident Charities are expressly banned from carrying out any work related to: 'the advancement of human and democratic rights'; 'the promotion of equality of nations, nationalities and peoples and that of gender and religion'; 'the promotion of the rights of the disabled and children's rights'; 'the promotion of conflict resolution or reconciliation'; 'the promotion of justice and law enforcement services'.<sup>5</sup>

100. The Proclamation expressly bars Ethiopian NGOs which receive more than 10% of their funding from foreign sources from working in the areas listed above. It would also make any work by foreign NGOs in these fields illegal without the written consent of the Ethiopian government. The Proclamation establishes the Charities and Societies Agency (hereinafter, the Agency) with reportedly wide-ranging and discretionary powers to decide on the legal recognition of NGOs, to disband NGOs that have already been legally recognized, and to subject NGOs to intrusive patterns of surveillance.

101. The Proclamation also prescribes criminal penalties for administrative infractions.

### **Reply from the Government**

102. By letter dated **16 February 2009**, the Government replied to the communication sent on 21 January 2009. It confirmed that the Parliament passed the Charities and Societies Proclamation, which would contribute to ensuring transparency and accountability. The Government stated that the statements made by the Rapporteurs did not accurately describe the words and spirit of the Proclamation. It said that one of the objectives of the Proclamation had been to introduce the rule of law in the formation, operation and dissolution of these organizations.

103. The Government recognized that while Ethiopian Charities were free to engage in any charitable activity, certain limitations were imposed on non-Ethiopian charities. The restricted charitable activities, listed in the Proclamation, related to political activities, which the government believed should not be left to foreigners and foreign funds. The Government added that the State was at the early stages of democratization and that this process should have its

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<sup>5</sup> Section 3.2 (j), (k), (l), (m), (n).

roots in the country and its people before it is exposed to the undue influence of foreigners. Other activities that did not affect the political system of the country and traditional charitable activities were identified and allowed in the Proclamation.

104. The Government said that one of the motives for the issuance of the legislation was to ensure accountability and transparency. The Agency entrusted with the implementation of the Proclamation, has registered and recognized charities and societies, and ensured observance of the law by these. In addition to supervision through inquiries and investigation of reports, the Agency may suspend or cancel the permits of civil society organizations that do not abide by the law. However, the government disagreed with the statement that the Agency had intrusive powers and that its powers were “broad and vaguely defined”.

105. The Government stated that the “fine” was the only penalty the Proclamation had introduced and that the amount varied according to the gravity of the offence and the ability to pay. As to the other forms of punishment, the Proclamation referred to the Criminal Code which applies to all without any distinction, including charities and societies and officers associated with them.

106. The Government specified that the Proclamation had been issued by the House of People’s Representatives (HPR) and that, according to the Constitution, the HPR must abide by the Constitution. It further stated that the Proclamation on Charities and Societies did not profess to regulate freedom of expression and assembly.

107. The Government also recognized that Ethiopian law does not allow political associations by foreigners but that this prohibition is related to the preservation of the sovereignty of the country.

108. Finally the Government also commented on the consultative process that led to the adoption of the Proclamation by Parliament and some of the amendments that were introduced in the final draft based on recommendations by civil society members.

## **Observations**

109. The Special Rapporteur would like to thank the Government of Ethiopia for its response to her communication dated 21 January 2009. She regrets nevertheless, that the Government did not reply to her communication of 5 March 2008 and would be particularly interested to know whether this case has resulted in any prosecutions of alleged perpetrators and whether the victim has been granted reparation. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised.

## **France (au nom de l’Union Européenne)**

### **Communication envoyée**

110. Le 16 juillet 2008, la Rapporteuse spéciale sur la violence contre les femmes, ses causes et ses conséquences, conjointement avec : la Présidente-Rapporteur du Groupe de travail sur la détention arbitraire, la Rapporteuse spéciale sur la vente d’ enfants, la prostitution des enfants et la pornographie mettant en scène des enfants, la Rapporteuse spéciale sur la liberté de religion ou

de conviction, le Rapporteur spécial sur l'Indépendance des juges et des avocats, le Rapporteur spécial sur la situation des droits de l'homme des migrants, le Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associé, l'Expert indépendant chargé d'examiner les effets de la dette extérieure et des obligations financières internationales connexes des Etats sur le plein exercice de tous les Droits de l'Homme, en particulier des droits économiques, sociaux et culturels, et l'Expert indépendant nommé par le Secrétaire général sur la situation des Droits de l'Homme en Haïti, a envoyé une communication au Gouvernement exerçant la Présidence du Conseil de l'Union européenne au sujet de la Directive 2008/.../EC du Parlement européen et du Conseil sur les normes et procédures communes applicables dans les Etats membres au retour des ressortissants de pays tiers en séjour irrégulier (COM (2005) 0391 - C6-0266/2005 - 2005/0167 (COD) (la « Directive de retour »). Cette directive fut adoptée par le Parlement européen le 18 juin 2008.

111. Il fut mentionné que la Directive de retour pouvait être considérée comme un effort visant à mettre en place des normes communes en matière de retour de ressortissants de pays tiers en séjour irrégulier; et à renforcer les mécanismes de protection dans certains Etats membres de l'Union. Le texte et le préambule de la Directive font référence aux normes et standards internationaux et européens des Droits de l'Homme ainsi que l'obligation de fournir une assistance légale aux ressortissants d'un pays tiers en situation irrégulière envisagée dans l'article 13. Néanmoins, les Experts des Droits de l'Homme ont relevé plusieurs sujets de préoccupation concernant la Directive.

112. Un des principaux sujets de préoccupation est lié au régime de détention pendant la procédure de retour ou d'éloignement des ressortissants des pays tiers en situation irrégulière, y compris des mineurs non-accompagnés et d'autres personnes vulnérables, comme prévu dans les articles 15 et 17 de la Directive.

113. L'article 15 de la Directive de retour établit qu'en règle générale, la période de détention ne devrait pas excéder six mois, pourvu que des mesures suffisantes mais moins coercitives ne puissent être appliquées effectivement et qu'il existe un risque de fuite ou que le ressortissant d'un pays tiers évite ou empêche la préparation du procès de retour ou d'éloignement. Toutefois, dans les cas particuliers, cette période peut être prolongée par les Etats membres jusqu'à un maximum de 12 mois additionnels. L'article 17 de la Directive permet aux Etats membres la détention de mineurs non-accompagnés se trouvant en situation particulièrement vulnérable.

#### *Proportionnalité de la détention (article 15)*

114. Il fut mentionné que les migrants en situation irrégulière ne sont pas des délinquants. En règle générale, les migrants ne devraient pas être sujets à la détention. Les Etats membres doivent recourir à la détention uniquement en dernier recours, conformément à l'application stricte du principe de proportionnalité. Le considérant 16 et l'article 15, paragraphe 1, de la Directive tiens compte de ce principe. Cependant, l'obligation des Etats membres de considérer l'application de mesures moins coercitives devrait être expressément établie, ainsi que l'obligation de réaliser une évaluation exhaustive de la possibilité d'appliquer ces mesures. Aussi, l'article 15, paragraphe 1, ne fournit pas une liste exhaustive de motifs concrets de détention. De ce fait, il est à craindre que les Etats membres aient recours à la détention de manière excessive et considèrent celle-ci comme une règle et non pas une exception.

115. De plus, les Etats membres ont l'obligation d'assurer que les personnes victimes de trafic ne soient pas poursuivies pour la violation de lois d'immigration ou pour des activités réalisées en conséquence directe de leur situation de victime de trafic. Ces personnes ne doivent pas être placées dans des centres de détention de migrants ou maintenues sous quelque autre forme de privation de liberté. Nous suggérons que la Directive de retour soit révisée afin d'y inclure cette garantie, ainsi que tout autre dispositions relatives à la protection des personnes victimes de trafic, conformément aux Principes et Directives concernant les Droits de l'Homme et la traite des êtres humains (E/2002/68/Add.1) élaborée par l'Office du Haut-commissariat des Nations Unies aux Droits de l'Homme.

*Période maximum de détention (Article 15)*

116. Les Experts ont aussi signalé que la durée de 18 mois de période maximale de détention leur paraissait excessive. En particulier lorsque les obstacles à la préparation du retour ou à l'éloignement ne sont pas imputables à la sphère de responsabilité du migrant, par exemple lorsqu'il est difficile d'obtenir la documentation nécessaire du pays d'origine ou du pays de destination. La proposition originale de la Commission européenne établissait une période maximale de détention de six mois (COM/2005/391 final, article 14, paragraphe 4).

*Détention et retour de mineurs non-accompagnés (Articles 10, 14 et 17)*

117. Les Experts ont aussi demandé si les Etats membres pouvaient indiquer dans quelles circonstances la détention des mineurs non-accompagnés pouvait être justifiable. L'article 17, paragraphe 1, de la Directive de Retour transcrit simplement les termes de l'article 37, lit. (b) clause 2 de la Convention des Droits de l'Enfant. A notre avis, la Directive n'établit pas de garanties légales et de procédures suffisantes concernant les mineurs non-accompagnés. Ils ont aussi demandé de recevoir des informations sur les conditions nécessaires pour que la structure d'accueil pour mineurs non-accompagnés dans l'Etat de retour soit considérée comme « adéquat » (article 10, paragraphe 2).

118. Des préoccupations concernant l'abaissement des normes relatives au droit à l'éducation, particulièrement les opportunités éducatives pour les mineurs, ont aussi été exprimées. La proposition originale de la Commission européenne incluse dans l'article 6, paragraphe 4, interdit aux Etats membres d'expulser des mineurs sans considérer leur droit à l'éducation. Le texte actuel requière simplement aux Etats membres de prendre en considération dans la mesure du possible l'accès des mineurs au système d'éducation basique dépendant de l'autorisation de séjour (article 14, paragraphe 1). Une disposition similaire est contenue dans l'article 17, paragraphe 3, qui établit que les mineurs en détention auront accès à l'éducation dépendant uniquement de la durée de leur séjour.

*Révision judiciaire de la légalité de la détention administrative (Article 15)*

119. Les experts ont souhaité voir les garanties légales relative à la révision judiciaire de la légalité de la détention administrative incluse dans l'article 15 de la Directive développées davantage afin d'obliger les Etats membres à définir la limite des délais plutôt que d'indiquer que ces réexamen doivent être « accélérés » et à « intervalles raisonnables ».

*Situations d'urgence (article 18)*

120. De plus, indépendamment du fait que les Etats membres puissent invoquer l'existence de situations d'urgence permettant la dérogation des limites maximales pour la révision judiciaire, déjà assez imprécises, et adopter des mesures d'urgence conformément à l'article 18 de la Directive, les circonstances peuvent être au-delà du contexte du ressortissant d'un pays tiers passible de retour. Il fut rappelé aux Etats membres que le recours à la révision judiciaire sans délai de la légalité de la détention n'est pas un privilège mais un droit fondamental. C'est un droit qui ne peut être dérogé sauf en cas de danger public exceptionnel conformément à l'article 4, paragraphe 1, du Pacte international de Droits civils et politiques (voir l'observation générale n. 29 du Comité des droits de l'homme, CCPR/C/21/Rev.1/Add.11). De même, l'article 13, paragraphe 2, de la Directive de retour n'établit pas un effet suspensif aux recours d'appel contre les décisions de retour ou d'éloignement ni contre les décisions d'interdiction d'entrer, donnant lieu à une préoccupation qui généralise le « fait accompli ».

*Interdiction d'entrée (article 11)*

121. La possibilité que la décision de retour ou d'éloignement comporte une interdiction d'entrée d'une durée de cinq ans au maximum, telle qu'établie par l'article 11 de la Directive de retour, pourrait violer le principe de non-refoulement, considérant que la situation dans un pays donné peut se détériorer dramatiquement pendant cette période. Afin d'assurer que le principe de non-refoulement soit pleinement respecté conformément à l'article 4, paragraphe 4, il fut demandé que la Directive soit plus précise sur les critères spécifiques à prendre en compte lors de sa mise en œuvre (voir article 5 lit. (c)).

122. L'introduction de cette interdiction d'entrée pourrait créer des conditions dans lesquelles des migrants chercheraient à revenir irrégulièrement dans l'Union européenne, en augmentant le risque de trafic. En conséquence, la Directive pourrait accroître la vulnérabilité des migrants à devenir des victimes de trafics. La garantie établie dans la Directive que les victimes de trafic ayant obtenu un permis de résidence « ne feront pas l'objet d'une interdiction d'entrée » paraît insuffisante. La prompte et adéquate identification des victimes de trafic est un problème répandu dans plusieurs pays laissant par conséquent, un groupe substantiel de victimes mal identifiées sans droits de protection et d'assistance.

*Groupes vulnérables (article 14)*

123. Les experts ont noté avec satisfaction que l'article 14 de la Directive comprend une clause reconnaissant la nécessité de prendre en compte les besoins particuliers des personnes vulnérables et que ces besoins spéciaux seront pris en considération, ainsi que l'article 3 lit. (i) de la Directive contienne une définition du terme « personnes vulnérables ». Néanmoins, il fut mentionné l'importance de la protection et des garanties spécifiques pour ces groupes vulnérables. Il fut également mentionné l'importance que les victimes de sévères formes de violence psychologique, physique et sexuelle, incluant les victimes de violation sexuelle, soient traitées avec une sensibilité particulière pendant la détermination de leur cas et la période de retour volontaire ou involontaire.

124. Malgré que la majorité des ressortissants des pays tiers affectés par la Directive n'aient pas demandé l'asile politique ou le refuge dans des pays de l'Union européenne, les normes existantes relatives à la détermination des cas d'asile peuvent être utiles, par analogie, pour l'application de la Directive de retour et en particulier de son article 14. Les experts ont suggéré qu'au moment de décider le retour ou l'éloignement d'un ressortissant d'un pays tiers, que les Etats membres prennent en considération que la violation ou autre forme de violence sexuelle (ainsi qu'en cas de trafics ou de violence domestique) pour des motifs de race, religion, nationalité, opinion politique ou d'appartenance à un groupe social particulier, soit considérée comme persécution sous la définition de « réfugié » contenus dans la Convention relative au statut des réfugiés de 1951.

125. La Directive devrait être révisée afin d'y inclure des garanties spécifiques pour les victimes de violations des droits de l'homme, y compris hommes, femmes et enfants ayant fait l'objet de trafiqués pour leur exploitation sexuelle ou de travail. La Directive devrait garantir l'accès aux recours pour les victimes de trafic, avant qu'une décision sur leur expulsion soit prise. La prompt identification des victimes de trafic est essentielle ; les Etats membres doivent développer des procédures et directives pour les autorités pertinentes chargées de détecter des migrants irréguliers et permettant l'identification prompte et fiable des victimes de trafic.

126. Les experts ont indiqué que la Directive ne reflète pas de manière adéquate certaines dispositions et garanties pour les victimes de trafic contenues dans la Convention du Conseil de l'Europe sur la lutte contre la traite des êtres humains entrée en vigueur en février 2008. La Directive devrait également refléter et conformer aux Principes et Directives concernant les Droits de l'Homme et la traite des êtres humains élaborée en 2002 par l'Office du Haut-commissariat des Nations Unies aux Droits de l'Homme.

127. Les experts ont finalement demandé aux Etats membres à travers le Gouvernement exerçant la Présidence du Conseil de l'Union européenne la révision de la Directive de retour. En suivant l'accord du Parlement européen du 5 juin et avant l'adoption de l'accord du Conseil de l'Union européenne prévu pour les 24 et 25 juillet 2008, ils ont considéré qu'il est de la plus haute importance que cette Directive soient en conformité avec toutes les normes et les standards internationaux des Droits de l'Homme applicables et prennent pleinement en considération les obligations des Etats en tant que pays receveur, transit et origine des migrants.

### **Réponse reçue**

128. Le 4 septembre 2008, le Gouvernement exerçant la présidence de l'Union européenne envoya une réponse à la communication envoyée conjointement le 16 juillet 2008 concernant le texte de la directive « relative aux normes et procédures communes applicables dans les Etats membres au retour des ressortissants de pays tiers en séjour irrégulier ».

129. En qualité de représentant de la présidence en exercice, il fut mentionné les éléments de réponse suivants :

## **L'Union européenne est une communauté fondée sur le droit**

130. Des règles de droit fixent ainsi les conditions d'entrée, de séjour et de résidence des ressortissants de pays tiers dans les pays de l'Union. L'efficacité de la politique d'admission suppose également la mise en œuvre d'une politique d'éloignement à l'encontre des personnes qui ne respecteraient pas ou plus les réglementations relatives à l'entrée ou au séjour. Nul ne conteste à cet égard aux Etats la faculté de mettre en œuvre une politique d'éloignement.

131. Le Conseil européen a invité à définir des normes communes pour la mise en œuvre de leur politique d'éloignement par les Etats membres. Tel est précisément l'objet de la directive « relative aux normes et procédures communes applicables dans les Etats membres au retour des ressortissants de pays tiers en séjour irrégulier ». Ce texte a fait l'objet d'un accord politique au Conseil (JAIS des 5-6 juin 2008, avant d'être adopté en première lecture par le Parlement européen le 18 juin dernier, mettant ainsi un terme à une négociation engagée en septembre 2005.

132. L'adoption de ce texte constitue en soi une avancée significative. Comme le relevait en effet la Commission dans les documents présentés en appui de sa Proposition Initiale, la situation qui prévaut, dans l'attente de la transposition de la directive, se caractérise par une très grande diversité des régimes applicables, qu'il s'agisse de la définition même des notions en cause ou des règles et procédures mises en œuvre. La directive vise ainsi à harmoniser et à rendre obligatoires des règles communes pour tous les Etats membres, y compris en matière de garanties procédurales et juridiques. Le respect de ces normes pourra le cas échéant être contrôlé par la Commission et par le juge européen, conformément aux procédures pertinentes prévues par le traité CE.

133. Naturellement, la directive ne fait pas obstacle à l'adoption ou à l'application de normes plus favorables (article 4 paragraphe 3). Cette directive est également sans préjudice aux règles applicables en matière d'asile.

134. La directive précise explicitement que les règles qu'elle contient doivent être mises en œuvre dans le respect des droits de l'homme et des libertés fondamentales des personnes concernées.

135. L'Union européenne s'est toujours fortement engagée en faveur des droits de l'Homme, qu'elle défend et promeut, en son sein et partout dans le monde. En accord avec les valeurs et les principes fondamentaux qui sont les siens, l'Union européenne place ainsi au rang de ses premières préoccupations la garantie du respect des droits de l'Homme de tous les immigrants, ainsi que la lutte contre le racisme, la xénophobie, et la traite des êtres humains, tout particulièrement dans le cadre de sa politique migratoire.

136. En tout état de cause, il appartiendra aux Etats membres d'appliquer l'ensemble des dispositions de la directive dans le respect de l'acquis communautaire en matière de droits de l'Homme, d'immigration et d'asile, et des conventions internationales ratifiées par les Etats membres en la matière.

137. Il est à noter à cet égard que plusieurs dispositions dans le texte de la directive s'inspirent des dispositions pertinentes de la Convention Européenne des Droits de l'Homme.

138. La directive « relative aux normes et procédures communes applicables dans les Etats membres au retour des ressortissants de pays tiers en séjour irrégulier » ne constitue que l'un des volets de l'action de l'Union en matière migratoire.

139. Dans le cadre de la mise en œuvre des programmes de Tampere (1999) et de La Haye (2004), l'Union européenne a progressivement développé une politique et des instruments communs dans le domaine de l'immigration et de l'asile.

140. En décembre 2005, une « Approche globale des migrations » a été définie, qui vise, par une collaboration accrue entre pays de départ, de transit et de destination, à promouvoir une gestion intégrée et équilibrée des questions migratoires comprenant des politiques destinées, en coopération avec les pays tiers, à tirer parti des avantages de la migration légale et à lutter contre l'immigration illégale. Le champ géographique de cette approche, initialement orienté vers l'Afrique et à la Méditerranée, a été étendu à l'Europe orientale et du sud-est par le Conseil européen de juin 2007.

141. L'Union européenne s'applique aujourd'hui à mettre en œuvre les instruments nécessaires à la réalisation de cette Approche globale, en coopération avec les pays tiers d'origine et de transit, notamment en matière d'organisation de la migration régulière et professionnelle ou de migration circulaire.

142. De fait, l'Europe *largo sensu* s'avère aujourd'hui la première destination des migrants internationaux, loin devant l'Asie et l'Amérique du nord. L'Union européenne accueille aujourd'hui quelque 18,5 millions de ressortissants en provenance de pays tiers.

S'agissant plus précisément des questions soulevées dans la correspondance :

Concernant la proportionnalité de la rétention :

143. Le texte de la directive ne tend pas à privilégier la voie de la rétention, mais bien celle du départ volontaire.

144. Le considérant (16) rappelle que « le recours à la rétention aux fins d'éloignement devrait être limité et subordonné au respect du principe de proportionnalité en ce qui concerne les moyens utilisés et les objectifs poursuivis. La rétention n'est justifiée que pour préparer le retour ou procéder à l'éloignement et si l'application de mesures moins coercitives ne suffirait pas ».

145. Précisément, l'article 15 prévoit que la rétention d'un ressortissant de pays tiers en séjour irrégulier est appliquée à la seule fin de préparer le retour et/ou de procéder à l'éloignement, en particulier lorsque ce migrant présente un risque de fuite ou lorsqu'il fait obstacle à la procédure de retour ou d'éloignement.

146. Dans tous les cas, les Etats membres ont l'obligation d'envisager en priorité l'application de solutions moins coercitives, conformément à l'article 15 paragraphe 1. Cette disposition vise précisément à inciter au retour volontaire des ressortissants en séjour irrégulier. Le considérant (10) rappelle aussi que « lorsqu'il n'a pas lieu de craindre que l'effet utile d'une décision de retour s'en trouve compromis, il convient de privilégier le retour volontaire par rapport au retour forcé et d'accorder à cet effet un délai de départ ».

147. De façon générale, il convient de noter que le considérant (6) rappelle que « les décisions prises en vertu de la présente directive devraient l'être au cas par cas, en tenant compte de critères objectifs, ce qui implique que l'on prenne en considération d'autres facteurs que le simple fait d'être en séjour irrégulier ». En particulier, le texte de la directive inclut des dispositions spécifiques concernant les personnes vulnérables au sens de son article 3 (i), conformément à l'article 14 paragraphe 1.

**Concernant la période maximum de rétention :**

148. Il importe de rappeler que, conformément à l'article 15 paragraphe 5, la durée maximale de rétention est fixée à six mois. Si le texte de la directive ouvre la faculté d'étendre cette durée de rétention, cette extension constitue une exception, limitée à douze mois supplémentaires et strictement conditionnée, conformément aux dispositions du paragraphe 6.

149. Ces dispositions doivent être appréciées à l'aune des régimes actuellement appliqués à titre national par les Etats membres (et aussi par des pays hors de l'Union européenne). Aujourd'hui, dans plusieurs d'entre eux, la durée de rétention s'avère en effet supérieure à six mois ou peut même être illimitée.

150. Le texte de la directive introduit ainsi une innovation significative. En la matière, le texte de la directive permet également le maintien d'un dispositif plus favorable dans les Etats membres qui appliqueraient aujourd'hui une durée de rétention plus courte.

**Concernant la rétention et le retour de mineurs non-accompagnés :**

151. De façon générale, il importe de rappeler que le texte de la directive ne crée aucune obligation en matière de rétention et d'éloignement des mineurs. En revanche, il impose aux Etats membres qui en décideraient de respecter un ensemble de normes minimales en la matière.

152. Le considérant (22) rappelle que « conformément à la Convention des Nations Unies relatives aux droits de l'enfant (1989), "l'intérêt supérieur de l'enfant" devrait constituer une considération primordiale pour les États membres lorsqu'ils transposent les dispositions de la présente directive ». L'article 5 fait précisément obligation aux Etats membres, lorsqu'ils transposent la directive, de tenir dûment compte de l'intérêt supérieur de l'enfant (ainsi d'ailleurs que de la vie familiale).

153. Ce principe d'application générale trouve plusieurs déclinaisons dans le corps de la directive, notamment au titre de l'article 10 et plus généralement des garanties procédurales visées notamment aux articles 14 (accès des mineurs au système éducatif de base) et 17 (conditions de rétention des mineurs).

154. Ces dispositions s'appliquent sans préjudice des dispositions plus favorables prévues dans les droits nationaux ou dans des accords bilatéraux ou multilatéraux, telle la convention des Nations Unies relative aux droits de l'enfant, déjà mentionnée.

**Concernant la révision judiciaire de la légalité de la rétention administrative :**

155. Il convient de noter que le texte de la directive introduit des dispositions importantes concernant les garanties procédurales, s'agissant en particulier de l'assistance judiciaire. Le texte

de la directive suit en la matière les dispositions pertinentes de la CEDH ainsi le principe directeur n° 8 des vingt principes directeurs sur le retour forcé adoptés par le Conseil des Ministres du Conseil de l'Europe le 4 mai 2005.

Concernant les situations d'urgence :

156. Les dérogations prévues pour les délais de contrôle juridictionnel et les conditions de rétention sont limitées aux situations d'urgence, lorsqu'une charge lourde et imprévue pèse sur la capacité des centres de rétention d'un Etat membre. Dans le cas où un Etat membre décide de recourir à ces mesures exceptionnelles, il a l'obligation d'informer la Commission de sa décision et de la fin de ces mesures dérogatoires, dès que les motifs justifiant leur application ont disparu.

Concernant l'interdiction d'entrée :

157. Il convient de rappeler que, conformément à l'article 11 paragraphe 1, une interdiction d'entrée n'est de droit que dans deux cas particuliers: si aucun délai n'a été accordé pour le départ volontaire (notamment dans les cas visés à l'article 7 paragraphe 4) ou si l'obligation de retour n'a pas été respectée. La possibilité d'assortir une décision de retour d'une interdiction d'entrée constitue autrement une simple faculté. En tout état de cause, la durée d'une telle interdiction ne peut dépasser cinq ans, sauf cas exceptionnels (menace à l'ordre du public par exemple). Cette durée maximale doit être appréciée à l'aune des pratiques aujourd'hui suivies par plusieurs Etats membres (et aussi par des pays hors de l'Union européenne).

158. En tout état de cause, des dérogations sont prévues par le texte de la directive : les Etats membres ne peuvent appliquer l'interdiction d'entrée aux personnes victimes de la traite des êtres humains (article 11 paragraphe 3) ; ils peuvent s'abstenir d'imposer, lever ou suspendre une interdiction d'entrée, pour des raisons humanitaires (ibidem) ou, pour certaines catégories de cas, pour d'autres raisons (ibidem).

159. Les dispositions concernant une éventuelle interdiction d'entrée doivent être comprises également comme une incitation au départ volontaire.

160. De façon plus générale, les décisions d'interdiction d'entrée sont assorties de garanties procédurales, conformément aux dispositions des articles 12 et 13 (décisions rendues par écrit, motivation en fait et en droit, informations relatives aux voies de recours disponibles.).

161. Au-delà, le texte de la directive ménage la possibilité pour les Etats membres de moduler la durée d'interdiction d'entrée, voire, au cas par cas la possibilité de lever une telle interdiction (article 11 paragraphe 3).

Concernant les groupes vulnérables :

162. Le texte de la directive vise à prendre dûment en compte les besoins particuliers des personnes vulnérables notamment en ce qui concerne les garanties assurées dans l'attente du retour (article 14), conditions de rétention et l'accès aux soins médicaux (article 16, paragraphe 3). A noter que la définition des « populations vulnérables » s'avère relativement large, aux termes de l'article 3 (i).

163. De façon plus générale, l'encadrement des mesures concernant ces groupes vulnérables a été significativement renforcé à la faveur de la négociation du projet de directive.

### **Observations**

164. La Rapporteuse spéciale tient à remercier le Gouvernement de la France exerçant la présidence de l'Union Européenne, pour sa réponse détaillée aux questions soulevées dans la communication conjointe des experts indépendants du Conseil des droits de l'homme.

165. The Special Rapporteur would like to thank the Government of France, in its capacity as holding the Presidency of the Council of the European Union, for the detailed response to the allegations raised in the joint communication.

## **Guatemala**

### **Llamamiento urgente**

166. El **20 de marzo de 2008**, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con el Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos, enviaron un llamamiento urgente al Gobierno de Guatemala en relación con las amenazas supuestamente recibidas por la Sra. A. R. L. C., coordinadora de la Defensoría de la Mujer en la Procuraduría de Derechos Humanos en el departamento de Quiché.

167. Según las informaciones recibidas, la Sra. A. R. L. C. habría jugado un papel destacado en el procesamiento de dos agentes de policía ante la justicia por la violación de una mujer indígena, la Sra. L. M., violada bajo custodia policial en 2005. En 2007 se habría acusado a dichos policías por un delito de violación con agravantes y abuso de autoridad. Uno de ellos habría sido detenido, pero el otro se encontraría huido de la justicia.

168. La segunda vista oral del juicio habría tenido lugar el pasado 25 de febrero. Esa tarde, la Sra. A. R. L. C. habría recibido en su teléfono móvil una llamada de un hombre que la amenazaba. La noche del 2 de marzo, unos desconocidos habrían escrito con spray "VC3 M18", el nombre de una banda callejera, en el muro de la casa de la Sra. A. R. L. C. Dichos desconocidos habrían roto también luces de la entrada de su casa y las bombillas de las farolas de su calle.

169. El 6 de marzo, a las 4:24 de la tarde, la Sra. A. R. L. C. habría recibido en su teléfono móvil una llamada de un hombre que habría afirmado ser un recluso de una prisión de la Ciudad de Guatemala y luego habría colgado. La Sra. A. R. L. C. nunca habría tenido contacto con los reclusos de la prisión, y el número de su teléfono móvil sólo lo conocerían sus familiares y amistades.

170. Se teme que estas amenazas estén relacionadas con el trabajo de defensa de los derechos humanos de la Sra. A.R.L. C, en particular con el caso que está investigando sobre la violación de una mujer indígena. Se expresa preocupación por la seguridad e integridad de la Sra. A. R. L. C.

171. Estos hechos, de ser confirmados, se enmarcan en el cuadro de gran inseguridad y riesgo constatado por la Representante Especial durante su visita a Guatemala en febrero de 2004. En su comunicado de prensa, la Representante Especial señaló que “son especialmente objeto de amenazas las organizaciones que trabajan en cuestiones de justicia y de derecho a la verdad”. La Representante Especial también reiteró la preocupación por el nivel de impunidad ante los ataques y violaciones contra defensores de derechos humanos constatado durante la visita.

### **Respuesta del Gobierno**

172. Mediante cartas fechadas el 17 de abril de 2008 y el 1 de julio de 2008, la Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos (COPREDEH) y el Ministerio de Relaciones Exteriores respectivamente respondieron al llamamiento urgente por parte del Gobierno de Guatemala. La carta de la COPREDEH comunicó que los hechos de intimidación contra la señora A. R. L. C. fueron denunciados a la fiscalía departamental del Ministerio Público (expediente número MP226/2008/564 10 de marzo 2008). En el oficio número 252-2008 Ref. REFF/jrm de 4 de abril de 2008 el comisario sub jefe de comisaría 71 de Santa Cruz del Quiché, informó que la Policía Nacional Civil delegó a la sub estación 71-11 con sede en El Quiché, efectuar recorrido perimetral a la Defensoría de la Mujer en la auxiliatura del Procurador de Derechos Humanos, con el fin de dar protección en días hábiles y en horario laboral. También a la sub estación 71-21, con sede en el Municipio de Chichicastenango, realizar recorrido perimetral al domicilio de la señora A.R.L. C. de 17h00 a 7h00. El Estado de Guatemala, tomando en cuenta la labor realizada por la señora A. en la Procuraduría de Derechos Humanos en el departamento del Quiché, estableció las comunicaciones necesarias para garantizar la seguridad, integridad y libertad. Fue activado el sistema nacional para la implementación de medidas de seguridad, instalando seguridad perimetral en el domicilio y lugar de trabajo conveniente a las necesidades de la beneficiaria.

173. La carta del Ministerio de Relaciones Exteriores comunicó que se había solicitado información al Ministerio de Gobernación y a la Fiscalía General del Ministerio Público sobre las investigaciones realizadas en torno al caso. La Fiscalía General del Ministerio Público indicó que la señora A. R. L. C. presentó denuncia el día 25 de febrero de 2008, relacionada a las amenazas que había recibido por vía telefónica de una persona desconocida. El expediente identificado como MP226/2008/564 está siendo conocido por la Fiscalía de Derechos Humanos, Unidad Fiscal de delitos cometidos contra activistas de derechos humanos. El Ministerio Público indicó en su informe que dentro de la investigación se han realizado una serie de diligencias, entre ellas: se recogió la declaración testimonial; se solicitó control jurisdiccional, y; se solicitó autorización para determinar el número de teléfono del cual fue realizada la amenaza.

174. El Ministerio de Gobernación por su parte, indicó en su informe que de acuerdo a sus investigaciones, se identificaron los números de teléfono 22552199 de la empresa TELGUA, ubicado en el Centro de Orientación Femenina (prisión de mujeres) ubicado en la zona 18 capitalina, así como el teléfono 58 57 27 49, el cual pertenece a un teléfono celular de la Empresa Comcel. Éste último fue detectado en movimiento en la Colonia El Carmen, zona 12, y se estableció que ambos teléfonos son utilizados para la comunicación interna de Orientación Femenina. El Ministerio de Gobernación también indicó que elementos de la sub Estación 71-21 de Chichicastenango, de la Policía Nacional Civil, se prestaron ante la señora A. R. L. C.

indicándole que debido a la denuncia realizada ante el Ministerio Público de Santa Cruz de Quiché, se le brindaría seguridad 24 horas a partir del 14 de abril de 2008, por lo que ella agradeció la reputación de la PNC por brindarle la seguridad que necesita. A partir de dicha fecha se realizaron las coordinaciones correspondientes a fin de proporcionar seguridad perimetral de su casa de habitación, además se le proporcionó un número telefónico para cualquier información o coordinación de seguridad.

### **Observaciones**

175. La Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, agradece la información proporcionada por el Gobierno con relación e su comunicación de 20 de marzo 2008. La Relatora Especial ha visitado Guatemala en febrero de 2004.

176. The Special Rapporteur would like to thank the Government of the Guatemala for its reply to the communication sent on 20 March 2008. The Special Rapporteur conducted a country visit to Guatemala in February 2004.

## **Honduras**

### **Carta de alegación**

177. El **23 de enero de 2009**, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, el Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, y el Relator Especial sobre la situación de los defensores de los derechos humanos enviaron una carta de alegación al Gobierno de Honduras en relación con el asesinato de la Sra. C. N., defensora líder de los derechos de las personas transgénero en Honduras, los asesinatos de tres otras personas transgénero, la Sra. J. (P. R. Z.), la Sra. B. (A. E. V. M.) y la Sra. N. (C. A. R.), y otros recientes actos de agresión contra personas transgénero en Honduras.

178. Según las informaciones recibidas, la madrugada del 9 de enero de 2009, tres hombres desconocidos efectuaron varios disparos contra la Sra. C. N., activista por los derechos de las personas transgénero en Honduras, desde un automóvil azul en marcha en el Barrio Guaserique, Comayaguela, una ciudad colindante a Tegucigalpa. La Sra. N. recibió tres disparos en el pecho y uno en la cabeza, y murió a causa de las heridas.

179. El 20 de diciembre de 2008, cuatro agentes del cuerpo de policía golpearon a una trabajadora sexual y activista transgénero dedicada a la difusión de campañas de prevención del VIH/SIDA en el distrito del Palmira, Tegucigalpa. Los agentes intentaron robarla pero cuando se resistió, le asaltaron. Los agentes entonces le rotaron la cabeza contra una ventana y ella recibió cortes numerosos en su cara. Los agentes dijeron que estaban arrestando a la señora por romper la ventana para entrar a una propiedad privada. La llevaron a un centro medico local para tratar sus heridas. Después de que les dijo a los agentes que tiene SIDA, le insultaron. Luego le amenazaron: “si hablas, te dejaremos muerta en el monte.” Se le liberó sin cargos el día siguiente.

180. El 17 de diciembre de 2008, un agresor desconocido mató la Sra. N. (C. A. R.), una trabajadora sexual transgénero cuando le asestó catorce puñaladas.

181. El 21 de noviembre de 2008, otro agresor disparó a la señora B. (A. E. V. M.), otra trabajadora sexual transgénero, mientras se encontraba trabajando en el Obelisco, parque ubicado en la zona céntrica de Comayagüela.

182. El día 30 de octubre de 2008 un agresor, cuya identidad permanece desconocida, asesinó a la Sra. J. (P. R. Z.), también trabajadora sexual transgénero.

### **Observaciones**

183. La Relatoria Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, lamenta no haber recibido respuesta a su comunicación de 23 de enero de 2009 en el momento de finalización del presente informe y reitera su interés en recibir respuestas en relación con las alegaciones sometidas.

184. The Special Rapporteur regrets that the Government of Honduras did not reply to her communication of 23 January 2009, and reiterates her interest in receiving a response from the Government in regard to the allegations submitted.

## **India**

### **Response from the Government to an allegation letter sent in 2007**

185. On **14 August 2007**, Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the question of torture, sent an allegation letter to the Government concerning Ms. A. B., aged 19, daughter of S. H., residing at Lakshmipur, Rajpara, Rajsahi district, Bangladesh.

186. According to the information received, on 7 June 2007, at 18.45, Ms. A. B. was taken into custody together with Ms. C. K. by Indian Border Security Force (BSF) officers stationed at I & II Outposts at Kargil village, Murshidabad district of West Bengali State, while they were trying to cross the border from Bangladesh to India.

187. Some hours after being taken into custody, Ms. A. B. was raped by a BSF officer. The incident was witnessed by a superior officer of the intelligence branch at the BSF, who was visiting the outpost that day. The superior officer advised Ms. A. B. to visit a doctor and to lodge a complaint at the Raninagar Police Station. However, when she attempted to do so, the responsible officers refused to register her case and to have a medical examination conducted. Thereafter she was returned to the BSF camp.

188. The next day, when Ms. A. B. was taken to Raninagar Police Station, the Senior Divisional Police Officer from Domkal, Mr. M. B. H., ordered that she be sent to the Beharampur District Hospital for a medical examination. However, according to reports, the BSF put pressure on the medical officer who examined Ms. A. B., Dr. S. B. K., so that the latter declared that she was not raped. No forensic laboratory examination was conducted.

189. On 9 June 2007, Ms. A. B. and Ms. C. K. had to appear before the Additional Chief Judicial Magistrate in Lalbagh for the hearing of the case against them under the relevant provisions of the Foreigners Act of 1946. The Court issued an order to detain Ms. A. B. and Ms. C. K. in judicial custody.

190. On 21 June 2007, Ms. A. B.'s court case commenced. During these proceedings, her lawyer informed the Court that she was raped while in detention.

191. Concern was expressed that the authorities have failed to exercise due diligence to prevent, investigate and punish the violence against Ms. A. B. and to provide her with the required support and attention, including counselling.

192. By letter dated **21 July 2008, the Government replied to the letter sent on 14 August 2007**. It concluded that the allegation levelled against the BSF Ambush party appeared to be fabricated and that the medical examinations from different hospitals attested to that fact.

193. Regarding the details of the case, the Government stated that on June 7, 2007 two women of Bangladeshi nationality, namely Ms. C. K and Ms. A. B., were apprehended by a patrolling party of the BSF (Indian Border Security Force). They were brought to the outpost and a preliminary questioning was conducted in the presence of a lady member of the Panchayat (local government), namely Ms. R. B. They were then taken to the Government hospital, Raninagar where the Medical Officer carried out a medical examination and certified in his medical remarks that "no external injury is seen". They were then taken to the Police station of Raninagar to be kept in the women prison cell as there was no such facility available at the BSF outpost.

194. The Government added that the next morning, Ms. A. B. complained of sexual harassment by BSF patrolling party, upon which they were immediately taken to the Government hospital, Raninagar, where the Medical Officer re-issued a medical certificate saying that no external injuries were seen and also referred her to Sadar district hospital, Berharpore for further examination. He also endorsed that he had examined the same lady the evening before, at which time she did not complain of sexual assault. The Medical Officer of Sadar district hospital carried out an examination and categorically denied the possibility of sexual assault of the lady concerned.

195. The Government concluded that the medical examinations from different hospitals indicated that the allegation levelled against the BSF Ambush party appeared to be false and fabricated and that no FIR (First Information Report) was therefore lodged by the police against the BSF party. The Government also stated that an FIR regarding the apprehension of Bangladeshi nationals was lodged under the Foreigners Act at the Police Station of Raninagar. However, on receipt of a notice from the National Human Rights Commission of India about allegations levelled by the Asian Human Rights Commission, an NGO, a departmental Staff Court of Inquiry on the matter was also ordered by the Headquarters of BSF, Kolkatta, which is underway.

### **Allegation letter**

196. On **19 December 2007**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Independent Expert on Minority Issues, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and the Special Rapporteur on the independence of judges and lawyers sent an allegation letter to the Government concerning a number of allegations of violence against Dalit women in India. According to the information received:

197. On 11 August 2004, M. D. (wife of V. D.) and her daughter were stripped and paraded through the village, while villagers assaulted them and beat them. Allegedly, the police filed a complaint but did not investigate the case.

198. On 3 October 2004, R. was raped by G., who belonged to a dominant caste. He was arrested but was later released on bail.

199. On 20 May 2005, P. and her sisters M. and S. (Daughters of R. P.) were harassed and teased by two caste men, S. and B. When they tried to resist, the two men abused them. They were stripped naked and severely beaten. At the same time, they were insulted with sexual and caste names. They assaulted the family of the victims with a bat and other means. The accused were arrested on 20 May 2005. The police registered the complaint after considerable delay and only upon the insistence of the victims and their families. Thereafter, the accused were released on bail and were not prosecuted.

200. On 21 September 2005, D. D. was assaulted and raped by D. S. while she was coming back home from the ration shop. The accused was arrested, but was subsequently released on bail. Allegedly, after the initial investigation and arrest no more action was taken.

201. On 4 October 2005, S. D. (wife of S. R.) was beaten by A. Y. and B. Y. Apparently, no arrests were made and no investigation was conducted.

202. On 8 December 2005, B. R., a student in St. Arnold High school was found raped and murdered in her room. The family and friends believe that Fr. R. F. J. (a priest who was the principal of the school) was the perpetrator. Allegedly, before the incident, the victim had complained to her mother about the misbehaviour of the priest. A complaint was filed with the local police on 9 December 2005, but the investigation was not done properly, no action was taken against the accused, no medical report had been made available as of yet, and no charge sheet was filed.

203. On 14 January 2006, M. N. (daughter of J. N.) was raped and left on a train rail half naked by D. (A. P.), P. S., B. S., S. S. (A. G. S.), four youth of the residence of Hinauti in the district of Chandauli. Allegedly, the accused were arrested but then released on bail and they were not prosecuted.

204. On 20 January 2006, K. (daughter of R.) was gang raped by P., T., and M., while she was going to the toilet in the fields. The assailant were arrested immediately but then released on bail.

205. On 25 January 2006, L. K. (daughter of S. K.), was raped by R. while she was washing utensils and cleaning her place. Allegedly, the accused was released on bail and was not prosecuted.
206. On 26 February 2006, G. D. (Wife of V. D.) was sexually assaulted and insulted by U. U., U. U. and D. U. The perpetrators were not arrested because they obtained anticipatory bail.
207. On 25 March 2006, A. S. C. (wife of S. C.), teacher in Ramnagar, was harassed verbally and sexually by the head master of the school. She filed a complaint at the local police station, but no action was taken. The day after, the headmaster insulted her using caste names; he also physically assaulted her and injured her. She was granted 5000Rs compensation. Allegedly, the accused obtained anticipatory bail.
208. On 12 July 2006, M. G. was raped and murdered by her boyfriend and four of his friends. Previously, she had tried to pressure him to marry her, which he refused. The alleged perpetrators are S. S., A. S., M. Y., M. S. S., and H. S. Reportedly, the police was not unwilling to investigate and prosecute. The mother of the victim put pressure on the police, who then arrested the group of perpetrators. The mother of the victim was given 50.000Rs compensation and was told that the case was closed.
209. On 13 September 2006, M. D. (daughter of S. M.), was coming back from the toilets when K. S., U. S. and P. S. passed urine on her. She tried to argue with them, they physically and verbally assaulted her and her husband. They also stripped M. D. of her clothes and insulted her with names that stressed her untouchability. Allegedly the accused were arrested but were later released on bail.
210. On 20 October 2006, J. R. M. was going to the village *bhagol* to fetch water. The deputy S. M. K. and G. D. were there. She complained about the difficulties faced by Dalit women. Because of her complaint, R. S. K. P., S. G. K. P., V. J. and G. D., who was present when the victim complained about the lack of access to water, started abusing her, causing serious injury. Allegedly, the accused were arrested immediately and then released on bail.
211. On 16 November 2006, R. D. (wife of V. B.) was insulted and assaulted by R. and S. S. while she was working on the foundations of her new house in her own fields. Her husband and father who tried to help her were also beaten. The accused were arrested but were later released on bail.
212. On 8 December 2006, A. K. (wife of S. R.) was elected as a representative of her village Kovuru. Members of the dominant caste (V. S., S. B., S. R., S. P., I. and A.) did not allow her to take office and beat her up and insulted her in public because she was a Dalit. Allegedly, the police refused to file a complaint and to investigate.
213. On 11 January 2007, S. M. was assaulted and raped by G. K. D. K., who belonged to a dominant caste. The accused was arrested on 26 January 2007, but his family and friends threatened to kill S.M.'s family if she pursued the case. S.M.'s family informed the police about these threats and asked for protection, but the police reportedly refused. S.M.'s family then decided that she should drop the case, and the perpetrator was released.

214. On 25 April 2007, C. A. N. was reportedly kidnapped and raped by her neighbours while she was walking outside of her village. The accused were immediately arrested but then released on bail. After the initial investigation, there was no prosecution and no further follow-up.

### **Reply from the Government**

215. By letter dated **29 April 2008**, the Government replied to the letter sent on 19 December 2007. It stated that the said communication did not include any information on the places of occurrence of these cases and requested these specific details to facilitate investigations by Indian authorities.

### **Allegation letter**

216. On **29 February 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, sent an allegation letter to the Government concerning violence against Dalit women.

217. According to the information received, Dalit women and men suffer descent based discrimination in various aspects of their lives and are also victims of violence and untouchability practices arising out of the caste system. Despite the formal abolition of “untouchability” by article 17 of the Indian Constitution, *de facto* discrimination and segregation of Dalits persists, in particular in rural areas and with regard to access to places of worship, housing, hospitals, education, water sources, markets and other public places.

218. Dalit women are confronted with discrimination, exclusion and violence to a larger extent than men. Land and property issues in particular, tend to cause or be at the root of conflicts over which Dalit women have faced eviction, harassment, physical abuse and assault. Dalit women are often denied access to or are evicted from their land by dominant castes, especially if it borders land belonging to such castes. They are thus forced to live in the outskirts of villages, often on barren land. Reportedly, on many occasions, cases of violence against Dalit women are not registered, and adequate procedures are not taken by the police.

219. On 25 August 2005, Mrs. K. K., wife of R. S., and her family bought a plot on Muktasar road. They built a house and started to live there. On 28 August 2005, A. S. (Police official), D. S. (police official), K. S., D. S. and R. S. abused the victims verbally and used caste names. They accused the family of illegally inhabiting the plot. They broke the walls of the house and took all the goods from the family. Mrs. K. K. was beaten and hospitalised. The victim tried to file a complaint at the police station, but the police reportedly refused to file a complaint or take any other action.

220. Mrs. F. D., wife of H. P., owns a field where she was growing crops. On 16 November 2005, F. Y., L. Y., U. D., S. D. and S. Y. beat her and stole her crops. On 13 December 2005, Mrs. F. D. filed a complaint with the local police. The accused were arrested but were immediately released on bail.

## **Reply from the Government**

221. By letter dated **29 April 2008**, the Government replied to the letter sent on 29 February 2008. It stated that the said communication did not include any information on the places of occurrence of these cases and requested these specific details so as to facilitate investigations by Indian authorities.

## **Allegation letter**

222. On **5 March 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, sent an allegation letter to the Government concerning two members of the Dalit caste, namely, Ms. S. D. of Baulia village, Shivdaspur, Post Manduvadih, Varanasi, and Ms. R. of Tahirpur village, Shahabad, Hardoi, Uttar Pradesh.

223. According to the information received, on 8 December 2005, approximately 30 persons, including 6 police officers in uniform reached Ms. S. D.'s house, in Baulia village, Shivdaspur, Post Manduvadih, Varanasi. The assailants started abusing and assaulting the Dalit women and children, and demolishing Ms. S.D.'s house. The reason seems to have been a land dispute. In reaction, the victims, their family members and friends demonstrated and blocked the road at Balia Chauraha. They were 100-150 people. The Station Officer (Police station-Manduadih) and other police personnel came to the spot, but no action was taken. On 25 December 2005, Ms. S. D. tried to lodge a complaint against three of the perpetrators, who were identified as: R. G., S. G. and R. G. The police neither registered the complaint nor took any further action. The complaint was finally registered on 25 February 2006, only upon the intervention of the District Court Varanasi, where Ms. S. D. filed a case. While registering the complaint factual details of the case were distorted and the gravity of the incident was allegedly diminished. The victim was reportedly threatened in order to have her withdraw her complaint. The perpetrators were arrested, and on 20 April 2007 Ms. S. D. was given 6250 Rupees as compensation.

224. On 15 November 2006, five policemen raided Ms. R.'s house, in Tahirpur village, Shahabad, Hardoi, Uttar Pradesh. One of them beat Mr. M., the victim's husband. When Ms. R. asked for the reason, the policeman immediately hit her in the stomach (she was pregnant at that time) and verbally abused her with caste names. The victim sustained many injuries to her back, cheeks, stomach and vagina, and lost her child as a result of the beating. Two of the perpetrators were reportedly identified as S. S. T. and U., who were both wearing uniforms. On 18 November 2006, the incident was reported to the local police station. One of the assailants was working there and refused to file a complaint. The assailant tried to persuade Ms. R. to withdraw her statement. He threatened to use his powers as a police officer against her. A suit was also filed against Ms. R. by the police officer S. S. T., who accused her of making wine and to own equipment used to produce alcohol. Ms. R. was sent to jail and brutally beaten.

### **Reply from the Government**

225. By letter dated 30 March 2009 the Government replied to the letter sent on 5 March 2008. It stated that the allegation was investigated by the Government of India and that the matter was *sub judice* with the Allahabad High Court, where a charge sheet had been filed against the accused.

### **Allegation letter**

226. On **5 March 2008**, the Special Rapporteur on violence against women, its causes and consequences, sent an allegation letter to the Government concerning Ms. J. S., a Dalit woman who was beaten and humiliated upon accusations of being a witch.

227. According to the information received, Dalit women and men suffer descent based discrimination in various aspects of their lives. Dalit women are confronted with discrimination, exclusion and violence to a larger extent than men, especially when they are widows, since they are perceived as more vulnerable. They are not only discriminated by people of higher castes but also by people of their own communities.

228. In this connection, it was allegedly reported that witch-hunting is a form of socially approved and religiously sanctioned violence against women, especially common in Andhra Pradesh. Based on accusations of being a *dayan* (witch) or practising *banamathi* (witchcraft), physical violence is employed against Dalit women as a mechanism to take possession of their family lands and/or to keep them under economic subjugation, sexual exploitation, gender domination and control.

229. Ms. J. S., a Dalit widow living in Chinta Kunta, Andhra Pradesh, was accused by M. R., the landlord of the village, of being a witch and of causing illness in the village, and was subsequently assaulted.

230. Reportedly, Ms. J. S. owns two acres of land adjacent to M. R.'s brother's land, which Ms. J. S. has to pass through to reach her own land. M. R.'s brother and his family members used to scold Ms. J. S. and her sons for passing through their land. They quarrelled on this issue on many occasions and since she was not reportedly obliging M.R.'s sexual offers, he stated publicly that she was practising witchcraft and made the villagers believe she was causing sickness in the village.

231. On 4 October 2002, most of the village's inhabitants belonging to high castes (over 30 persons in total) assailed her. While the main assailant was M. R., four other assailants were identified, namely, A., A., N. and P. The victim was beaten and humiliated in front of the whole village. To prove that she was a witch, her hands were soaked in kerosene and lit on fire.

232. On 5 October 2002, the incident was reported to the Darur police station. 13 persons were arrested but there were reportedly no convictions as of yet and the main perpetrator, the landlord M. R., had not been arrested.

233. The victim had to go to many hospitals for treatment to her hands. While she was undergoing treatment, the landlord M. R. regularly beat the victim and her son and threatened them with dire consequences if they did not withdraw the complaint. As Ms. J. S. and her son felt they were given no protection from State authorities, they were obliged to withdraw the complaint.

234. The victim received 50,000 Rupees from the District Ranga Reddy as a reimbursement on the basis of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, which orders local governments to establish economic and social rehabilitation for victims of atrocities. However, it was not specified what costs exactly the money was to cover.

### **Urgent appeal**

235. On **20 October 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an urgent appeal concerning Ms. K. C. and Ms. P. S., two indigenous women of Paderu who were allegedly gang raped by Gheyhound policemen.

236. According to information received, on 20 August 2007, 11 indigenous women were allegedly gang raped by Gheyhound policemen during anti-Naxalite operations in Vakapalli village under Nurmati Panchayat in Visakhapatnam, in the district of Andhra Pradesh. Reportedly, 21 Greyhound policemen entered the village at around 6 am and raided their houses on charges that their family members were associated with the Naxalites. Some of the women were raped in their house, others in the fields. On 30 March 2007 the National Human Rights Commission took *suo moto* cognizance of the incident and sent notice to the Senior Superintendent of Police, Visakhapatnam district, and the Director General of the Police, A. P., calling on them to submit a factual report within four weeks. However, reportedly no action has been taken to date by the police to identify and prosecute the rapists.

237. On 17 October 2008, two of the 11 victims, Ms. K. C. and Ms. P. S., were to travel to Delhi in order to attend a consultation meeting with women's non-governmental organizations from the Asia-Pacific region. However, on 14 October, the representative of the local NGO that was to accompany Ms. K. C and Ms. P. S. was threatened by the Paderu police and was told that he would face dire consequences if he extended any support to the two women. As a result of the threats, the two women were not able to attend the consultation.

### **Reply from the Government**

238. By letter dated **6 April 2009**, the Government replied to the letter sent on 20 October 2008. It stated that the allegations were investigated by the Government of India and that while a complaint was registered on 20 August 2007, the investigation conducted into the alleged complaint by a senior police officer at the directive of the High Court of Andhra Pradesh revealed the complaints to be false. The conclusions of the investigation were based on medical reports which did not support any evidence of rape/sexual intercourse, as well as on the considerable variations between the earlier and subsequent versions of the complaint by the alleged victims.

### **Allegation letter**

239. On **03 December 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an allegation letter concerning the harassment, arrest and detention of five members of the NGO Sangama, an NGO working on issues related to the human rights of persons belonging to sexual minorities, especially *hijras* (male-to female transsexuals).

240. According to the information received, on 20 October 2008, M. M., D. F., K., S. B. and S. S. went to the Girinagar police station as they had received news about five *hijras* who had been arrested and detained, and allegedly beaten by members of the Girinagar police. As they tried to inquire about the detention of the *hijras*, the members of the Sangama crisis intervention team were assaulted and detained at the Girinagar police station, and later at the Banashankari police station. They were accused of offences punishable under Section 143 (*unlawful assembly*), 145 (*joining unlawful assembly ordered to be dispersed*), 147 (*rioting*), and 353 (*obstructing government officials in performing their duty*) of the Indian Police Code. They were brought before a magistrate and placed in judicial custody later that evening. All five crisis team members were subsequently released on bail on 22 October 2008.

241. On the evening of the 20 October 2008, approximately 150 human rights activists and lawyers gathered in front of the Banashankati police station to peacefully protest against the arrest and detention of the Sangama crisis team members and to try and negotiate their release. Six delegates among the protesters were detained for about four hours at the police station and were subjected to physical and verbal abuse. Reportedly, members of the Banashankati police also attacked the peaceful protesters with sticks and subjected them to physical, verbal and sexual assault. Thirty-one human rights activists were placed into a small police van, and kept there for approximately seven hours.

### **Allegation letter**

242. On **4 February 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an allegation letter to the Government of India in relation to the residents of Dharkar.

243. According to the information received, on 29 January 2009, more than 50 police officers went to Dharkar, located at Hukulganj in Varanasi, and started to beat the residents living there. It is believed that women, children and elders were brutally beaten, including R., aged 19, R. and V., both aged 35, and L., aged 70. In addition, the police officers, believed to have been inebriated, tried to rape the women, and beat a pregnant woman with a *lathi*. The police officers also threatened to place a bomb in the locality if the residents of Dharkar did not leave before morning.

244. Complaints were filed with the District Magistrate in Varanasi and with the Additional District Magistrates, requesting them to issue orders for medical examinations and treatment. However, the complaints were reportedly ignored, and the complainants threatened to keep silent.

### **Observations**

245. The Special Rapporteur would like to thank the Government of India for the responses it provided to some of the communications she sent during the period under review, and invites the Government to respond to the remaining allegations submitted. She considers responses to her communications as an important part of the cooperation of Governments with her mandate.

246. Regarding the Government response of 29 April 2008 to the communication sent on 19 December 2007, the Special Rapporteur regrets that the Government failed to address the general situation of Dalits, and in particular Dalit women in India. The communication made reference to the general descent based discrimination that Dalit women and men suffer, the lack of proper implementation of existing legislation as well as the lack of police and judicial action to protect the rights of Dalits. In that communication the Rapporteurs referred to a large number of cases in order to illustrate the extent and variety of allegations of violence against Dalit women in India. In most cases, the name of the victim(s), the alleged perpetrator(s), and in some instances also the location of the incident, were reported. However, it was not possible to provide the full details of each individual case, either because the victims did not wish to reveal their full identity for privacy or safety concerns or because the source providing the information did not have the full details for each of the cases. While it is not excluded that each of these cases be subsequently addressed on a case by case basis, the Special Rapporteur urges the Government of India to provide information regarding the measures taken to guarantee the rights and freedoms of Dalits.

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

#### **Response from the Government to an urgent appeal sent in 2007**

247. On **17 October 2007**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government regarding Ms. R. S., a campaigner for women's rights and a member of the One Million Signatures campaign which calls for an end to discriminatory laws against women in Iran.

248. According to information received, on 8 October 2007, Ms. R. S. participated in an event to mark the International Day of the Child during which she collected signatures for the One Million Signatures campaign.

249. On 9 October 2007, nine agents of the security forces entered the home of Ms. R. S. and seized literature pertaining to the One Million Signatures campaign, her computer as well as some other personal belongings. Ms. R. S. was arrested shortly afterwards and placed in

detention at the local Office of Information and Security Ministry in Sanandaj, Kurdistan. Allegedly, she was being held in *incommunicado* detention as all efforts on the part of family members to contact her had failed.

250. Concern was expressed that the arrest and detention of Ms. R. S. may be directly related to her peaceful human rights activities, in particular her work to defend and promote women's rights in Iran. In view of her *incommunicado* detention, further concern was expressed with regard to her physical and psychological integrity.

251. By letter dated **13 February 2008, the Government replied to the letter sent on 17 October 2007**. It stated that Ms. R. S. used rights related to social liberties as a pretext for achieving her extremist inclinations.

252. The Government of Iran detailed that on the basis of investigations, Ms. R. S. was arrested on charges related to her organisational links with the terrorist group PEJAK (a group allegedly affiliated with the Kurdish Workers Party, the PKK), including; membership in the group; participation in the PEJAK military training course; being an accomplice to the explosion at the Sanandaj city exhibition; her connection with elements engineering bomb explosions in cities; and the provision of explosives for terrorist activities. It stated that Ms. R.S. was still under arrest and that her case was under investigation.

253. The Government added that her detention had no relation to her social or alleged women's rights activities and asserted that any allegations of mistreatment or lack of proper attention to her physical or psychological integrity were false.

#### **Allegation letter**

254. On **19 December 2007**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government concerning Ms. M. H., Ms. J. J., Ms. H. A., Ms. R. S. and Ms. D. A., members of the One Million Signatures Campaign, 'Change for Equality'.

255. According to the information received, since the end of October, five members of the Iranian women's rights movement, known as the One Million Signatures Campaign for Equality, were arrested and charged. Both Ms. M. H. and Ms. J. J. were charged with "inciting public opinion, propaganda against the state, and publication of false information" for the content of their writing on the website of the One Million Signatures Campaign, and were reportedly being held in the Evin Prison, in Tehran.

256. Ms. H. A. and Ms. R. S., both members of the campaign in the province of Kordestan, were reportedly detained for several weeks. On 4 November 2007, Ms. H. A. was abducted from her grandfather's home in Sanandaj, Kurdistan, by seven Ministry of Intelligence agents. After the arrest, the officers confiscated her computer and educational pamphlet related to the campaign. Allegedly, Ms. H. A. was being detained in the city of Sanandaj, and was believed to be held at the Ministry of Intelligence detention facility. She was deemed at risk of torture or other ill-treatment.

257. Ms. R. S. was allowed only limited contact with her family and no access to her lawyer. According to the information received, on 4 November 2007, the Tehran Court of Appeal sentenced Ms. D. A., another member of the campaign, to two years and six months imprisonment for participation in an illegal gathering, propaganda against the system, and disturbing public order after she participated in a peaceful rally in Tehran. An order to stay the sentence was issued after a statement issued by leading international human rights organizations, but it had reportedly expired, and the sentence could be implemented at any time.

### **Urgent appeal**

258. On **22 February 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government regarding the situation of Ms. R. A. and Ms. N. K., two members of the One Million Signatures Petition Campaign., which calls for an end to discriminatory laws against women in Iran.

259. According to the information received, on 14 February 2008, Ms. R. A. and Ms. N. K. were arrested in Daneshjoo Park in Tehran, while collecting signatures in support of the Campaign's petition. They were then taken to the Tehran police station no. 129 (Jaami) and later transferred to the security police station no. 8 for interrogation. Upon completion of their interrogation, they were transferred to the Vozara detention centre.

260. On 15 February, Ms. R. A. and Ms. N. K. were charged by the Revolutionary Court with "propaganda against the state". They were then transferred to the Evin prison as they were unable to provide the requested bail of \$22,000.

### **Urgent appeal**

261. On **7 March 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an urgent appeal to the Government regarding the cases of Ms. S. N., Ms. T. H., Ms. S. and Ms. A. M., who were reportedly sentenced to death and were in imminent risk of execution.

262. According to the information received, Ms. S. N. was arrested eleven years previously for the murder of her husband and sentenced to death. She claimed that her husband committed suicide, and a forensic examination reportedly concluded that this was a possibility. She claimed that she had initially confessed to the murder for fear that her son would be accused instead.

263. Ms. T. H. was convicted eight years ago of the murder of her husband and sentenced to death.

264. Ms. S., was sentenced to death for the murder of her five day old baby. It was alleged that her son was born as a result of a relationship with a drug addict who had given her refuge a year earlier. As she refused to name the father, a complaint was lodged by the Tehran Prosecutor and she was sentenced to *qesas*, which reportedly is not open to pardon or amnesty by the Supreme Leader.

265. Ms. A. M. was convicted five years ago of the murder of her husband and sentenced to death. Ms. A. M. was forced to marry her husband who was 40 years older than she was. The man who helped her commit the crime is expected to be freed upon payment of 60,000,000 Tomans “Dieh” (blood money).

266. Concern was expressed that in the above cases, these women may have been sentenced to the death penalty following trials that may have fallen short of fair trial standards and failed to respect the principle of non-discrimination on the basis of sex.

### **Allegation letter**

267. On **11 March 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders sent an allegation letter in relation to several women human rights defenders in Iran, including Ms. P. A., a women’s rights defender and one of the founding members of the One Million Signatures Campaign and Ms. E. S., also an active member of the movement. The aim of the campaign was legislative reform in order to achieve greater gender equality.

268. According to information received, on 19 February 2008, Ms. E. S. was reportedly sentenced *in absentia* to six months suspended imprisonment for “endangering national security” and “propaganda against the State” by branch 13 of the Revolutionary Court. She had been arrested on 10 June 2007 by the security police from Police Station 104. The sentence was to be suspended for two years, and was not to be implemented unless she was found guilty of another crime during that time.

269. On the morning of 3 March 2008, Ms. P. A. was due to travel from Tehran to Stockholm. She had passed through passport control and had boarded her flight when security officials prevented the flight from taking off until she had disembarked. Ms. P. A. was reportedly informed by security officials that she had been banned from leaving Iran. The agents then confiscated Ms. P.A.’s passport and issued her with a court order which required her to report to the security department of the passport office within 72 hours.

### **Urgent appeal**

270. On **11 April 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Representative of the Secretary-General on the situation of human rights defenders and the Vice-Chairperson of the Working Group on Arbitrary Detention sent an urgent appeal to the Government regarding Ms. K. M., a member of the Mother’s Committee of the One Million Signatures Petition Campaign.

271. According to the information received, Ms. K. M. was arrested on 8 April 2008 at her house by agents of the police, who forced their way into her home and refused to show her an arrest warrant. Ms. K. M. was then transferred to the Eshrat Abad Security Police Station, where she was interrogated during several hours, and, from there, to the Revolutionary Court, where she was interrogated by an Investigative Judge.

272. During the hearing, Ms. K. M. denounced that she had been ill-treated during her arrest. She was accused of hosting political meetings in her house and was asked to identify members of the Petition Campaign who had participated in the meetings. Subsequently, Ms. K. M. was charged with “spreading of propaganda against the State”; “disruption of public order” and “actions against national security.”

273. A temporary arrest order was issued against her and the bail for her release was set to 1,000 million Rials. As she declared that she was unable to pay such an excessive amount of money, the Investigative Judge ordered her transfer to prison for a week. At the time of the appeal, Ms. K. M. was being detained at the Vozara Detention Centre.

### **Reply from the Government**

274. By letter dated **28 April 2009**, the Government replied to the letter sent on 11 April 2008. It stated the following: “Upon the several complaints filed by neighbours of Ms. K.M., stating that she had been constantly disturbing the tranquillity of her neighbours by causing noise and disturbances, an officer from the local police office calls on Ms. K.M. to advise her not to cause problem for her neighbours; but as a result of her heedless reaction and obtrusive behaviour, she was arrested by the police officer and taken to the police station. According to the existing report, she was released on the same day, upon her expression of regret, and no judicial action was taken against her. There is much to be regretted that such an incident is maliciously reported to the Special Procedure and then reflected to us as ‘arrest by agents of the police’, ‘transferred to security police station’ and etc. The charges laid down against Ms. K.M. had no connection, whatsoever, with her, if any, social/human rights activities, and the case was immediately settled. Any allegation of maltreatment, of lack of proper attention to her integrity is baseless and mere fabrication of lies aiming at abusing the existing instruments.” (*Initials used to replace original names*)

### **Urgent appeal**

275. On **16 April 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government regarding the situation of Ms. S. E., lawyer and Nobel Peace Prize winner in 2003 for her work promoting women’s and children’s rights in the Islamic Republic of Iran.

276. According to new information received, on 5 April 2008, Ms. S. E. received an anonymous letter at her office which read: “S. E., your death is near ... We have warned you many times to watch your tongue, but despite the warnings you are talking. So for the last time correct your behaviour or you will be avenged [sic].” Ms. S. E. immediately denounced these threats in a letter to the police and recalled that she has been receiving death threats for years. In this document, she stated that she was convinced that the reason for these threats were her human rights activities.

277. On 7 April 2008, Ms. S. E. left Iran temporarily. On 15 April, State media reported that President Mahmoud Ahmadinejad had ordered the police to ensure the safety of Ms. S. E. Apparently, he also ordered police to conduct an investigation into the case.

### **Urgent appeal**

278. On **23 May 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government in relation to Ms. N. A., Ms. N. J., Ms. Z. P., Ms. R. M. and Ms. P. A., members of the One Million Signatures Petition Campaign.

279. According to the information received, on 19 April 2008, the 13<sup>th</sup> Chamber of the Tehran Revolutionary Court sentenced Ms. N. A. to six months' suspended imprisonment and ten lashes after having found her guilty of "disruption of public order" for having participated, on 4 March 2007, in a peaceful gathering in front of the Tehran Revolutionary Court to mark International Women's Day. On 21 April 2008, Ms. N. J. received the same sentence, on the basis of the same charges. On 29 March 2008, Ms. Z. P. was sentenced to two years' suspended imprisonment for "acting against national security" by the 16<sup>th</sup> Chamber of Tehran Revolutionary Court.

280. On 28 April 2008, Ms. R. M. and Ms. P. A. were notified that, subsequent to a hearing that took place on 4 February 2008, the Tehran Revolutionary Court had sentenced Ms. R. M. to six months' suspended imprisonment and ten lashes and Ms. P. A. to two years' imprisonment on charges of "acting against national security."

281. On 4 March 2007, the Iranian authorities arrested at least 31 women's rights activists, including Ms. N. A., Ms. N. J., Ms. M. Z. P., Ms. R. M. and Ms. P. A., for staging a peaceful demonstration against the prosecution of six women's rights defenders charged with criminal offences against public order and security for having organized a peaceful demonstration in the Haft-e Tir Square of Tehran on 12 June 2006.

### **Reply from the Government**

282. By letter dated **14 April 2009**, the Government replied to the urgent appeal sent on 23 May 2008. It concluded that the organizers of the gathering did not observe the requirements for holding an organized gathering in accordance with articles 26 and 27 of the Iranian Constitution. The Government stated that the individuals mentioned had not registered and that their two gatherings had not met the legal requirements for permits. Some of these women had been arrested due to their illegal actions and incitement to disorder. The Government added that they held another illegal gathering on 4 March 2007 in front of the court where their cases were under judicial procedure.

283. Ms. N. A. was sentenced on 19 March 2007 to six months' suspended imprisonment, which was reinstated by the Court of Appeal on 8 September 2008. Ms. N. J. was sentenced on 4 February 2008 to six months' suspended imprisonment but was acquitted by the Court of Appeal on 18 June 2008. Ms. Z. P. was sentenced to two years' suspended imprisonment on 2 December 2007, a verdict which was commuted to one year suspended imprisonment by the Court of Appeal on 18 August 2008. Ms. R. M. was sentenced six months' suspended

imprisonment on 5 March 2007, judgment reinstated by the Court of Appeal on 8 September 2008. Ms. P. A. was sentenced on 17 November 2007 to two years' suspended imprisonment and the review of the judgment was under review by the relevant Court of Appeal.

284. The Government concluded that: all the mentioned individuals were released; that none was sentenced to imprisonment; that three individuals, who did not have records, were sentenced to only six months' suspended imprisonment; and that the suspended imprisonment verdicts were issued merely as a deterrent, and to ensure they abide by the rule of law and public order, which are to be observed for the good of society.

285. The Government also stated that the sentences had nothing to do with these individuals' activities in defence of human rights or any other peaceful activity.

### **Allegation letter**

286. On **30 June 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an allegation letter to the Government concerning the arrest and detention of the following nine female human rights defenders, including five journalists: Ms J. B. Y., an online journalist with the daily *Sarmayeh* and the *Canon Zeman Irani*; Ms J. J., member of the One Million Signatures Campaign and a regular writer for the website of *Change for Equality*; Ms A. S., of the daily *Etemad* and *Change for Equality* website; Ms F. G. and Ms S. L., both journalists for *Canon Zeman Irani*; Ms A. M., a journalist and photographer; Ms N. S., lawyer and women and children's rights activist; and women's rights defenders, Ms N. M. and Ms N. A.

287. According to information received, on 12 June 2008, all nine women were arrested by members of the security forces outside the Rahe Abrisham Gallery in Tehran. The women had gathered to attend a seminar organised to mark the second anniversary of Iran's National Day of Solidarity of Iranian Women (an event which first took place in June 2005). On arrival at the Gallery, organisers of the event found the door to the building locked. They were informed that the seminar had been cancelled by the security forces, a large number of which were reportedly present at the scene. Ms. A. S. and Ms. N. M. remained outside the Gallery to inform participants about the cancellation of the seminar, but were arrested at approximately 3.00 p.m. When Ms. N. S. and Ms. J. B. made enquiries about the arrests of their colleagues, they too were also arrested. Ms. N. A., Ms. J. J., Ms. S. L., Ms. F. G. and Ms. A. M. were arrested soon afterwards. All were brought to Vozara Detention Centre where they were detained for approximately 8 hours before being released in the early hours of the following morning. The women were waiting to hear whether charges would be brought against them.

288. On the same day, the police reportedly visited the home of *Change for Equality* editor, Ms. P. A. However, she was not in the house at the time and they were unable to arrest her. On 2 May 2008, Ms. P. A. received a suspended sentence of two years' imprisonment and ten lashings for a period of three years on charges of "illegal gathering and collusion and refusal to obey the orders of the police with the intent of endangering national security". The charges against her were related to her involvement in the organisation of a peaceful demonstration in the Haft-e Tir Square, Tehran, on 12 June 2006, in protest of discrimination against women.

### **Urgent appeal**

289. On **11 July 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Working Group on arbitrary detention, the Special Rapporteur on the independence of the judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government concerning members of the One Million Signatures Campaign, Ms. H. A., Ms. R. A. and Ms. N. K.

290. According to information received, on 4 July 2008 Ms. H. A. began a five-year prison sentence. Her detention started on 4 November 2007, when her computer and pamphlets relating to the One Million Signatures Campaign were also confiscated. The sentence was passed on 18 June 2008 for “gathering and collusion to threaten national security” under Article 610 of the Islamic Penal Code. The sentence was reportedly based on interrogations carried out whilst Ms. H. A. was in isolated detention and was not allowed access to her lawyer. During her detention she was reportedly tortured. An appeal against her sentence was filed by her lawyer, but the Court of Appeal had not yet issued a decision.

291. On 20 July 2008 Ms. R. A. and Ms. N. K. were to appear in court. They were arrested on 14 February 2008 while collecting signatures as part of the One Million Signatures Campaign. The following day they were charged with “propaganda against the state” and transferred to Evin prison.

### **Urgent appeal**

292. On **30 July 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government regarding eight women and a man who were sentenced to death by stoning for adultery: Ms. K. N., Ms. I. E., Ms. M. (S.) G., Ms. Z.K. and Ms. A. K., Ms. A. K., Ms. K. V., Ms. L. Q., and Mr. A. F. M.

293. According to the information received, Ms. K. N. was a victim of domestic violence who was forced into prostitution by her husband in order to support his heroine addiction. He was murdered in 1995 by one of Ms. K.N’s clients who sympathized with her plight. Ms. K. N. already served 8 years in prison as an accessory to her husband’s murder. The man who murdered her husband also served 8 years in prison and is now free after paying *diyeh* (blood money) and undergoing 100 lashes.

294. Ms. K. N. wrote to the Judicial Commission for Amnesty to ask for her sentence of execution by stoning to be commuted. However, her appeal for amnesty was rejected; she had exhausted all domestic remedies. It was feared that her execution by stoning could happen at any time.

295. Ms. I. E. was sentenced to death by stoning for adultery, nine years of imprisonment and seventy-four lashes for aiding in a murder, hiding a body, and the destruction of criminal evidence by Branch 1 of Lali General Court in 2005. In 2006 the Supreme Court confirmed the death sentence which was being reviewed by the Pardons Commission.

296. Ms. M. (S.) G. was sentenced to death by stoning for adultery by Branch 12 of the Criminal Court of East Azerbaijan Province in 2006. Branch 27 of the Supreme Court overruled the verdict because of irregularities in the investigation phase. She remains under criminal proceedings.

297. Ms. Z. K. and Ms. A. K. were arrested on 5 February 2007 in connection with allegations of illegitimate relations other than adultery. On 17 March 2007, they were prosecuted in court, found guilty, and sentenced to 99 lashes. This sentence was executed. Thereafter, both women were returned to prison and another trial took place for the same charges and they were sentenced to death by stoning on 5 August 2007. Branch 27 of the Supreme Court confirmed the death sentence in 2007. The file is now with the Head of the Judiciary.

298. Ms. A. K. was sentenced to death by stoning for adultery and fifteen years of imprisonment for complicity in murder by Branch 1601 of Tehran General Court. In 2003 Branch 2 of the Supreme Court confirmed the judgment. The Pardons Commission, however, had returned the file to the trial court.

299. Ms. K. V. was sentenced to death by stoning for adultery and eight years of imprisonment for complicity in murder. Her case was at the time, before the Head of the Judiciary.

300. Ms. L. Q. was sentenced to death by stoning for adultery and fifteen years of imprisonment for complicity in murder by Branch 71 of the Criminal Court of Tehran. Branch 37 of the Supreme Court confirmed the judgment in 2007.

301. Mr. A. F. M. was arrested on 8 February 2005 and charged with committing adultery. He was convicted and sentenced to death on 21 December 2005 by the Second Branch of the Mazandaran Penal Court and the sentence was confirmed by Bureau 41 of the Supreme Court on 1 August 2006. The file was at the time with the Pardons Commission.

### **Reply from the Government**

302. By letter dated **8 April 2009**, the Government replied to the letter sent on 30 July 2008. The Government stated that the Holy religion of Islam attributes great importance to the issue of safeguarding the security and morality of society, and particularly to the fundamental institution of the family. To that end, and in order to secure the cleanliness and purity of the generation it has prescribed the very heavy punishment of “*Hadde Rajm*” (Prescribed Punishment of Stoning), for married individuals, as a deterrent that would contribute towards the realization of the sacred goal of the family. It added that Islam had defined stringent conditions, requirements and methods for proving this group of offences, so as to minimize the rate of oversight and error. The Government added that the main objective of Islamic Law was the introduction of a mechanism to prevent and discontinue the commission of such offences, adding that “in the view of Islamic jurists, the punishment of stoning, in its nature and enforcement is substantially different from execution”.

303. Finally, the Government informed that as a result of the investigations and legal procedures undertaken, the stoning of Ms. M. G., Ms. A. K. and Ms. Z. K. had been ruled out.

### **Urgent appeal**

304. On **26 August 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Working Group on arbitrary detention, the Special Rapporteur on the independence of the judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government concerning Ms. M. K., a journalist and active member of the Campaign for Equality, a women's rights movement in Iran which calls for reform of laws that discriminate against women, and a member of the One Million Signatures Campaign in Tehran.

305. According to information received, on 13 June 2008, Ms. M. K. was arrested by plain clothed security officers, who boarded a bus she was travelling on from Tajrish Square near Mellat Park, Tehran. Prior to her arrest Ms. M. K. used her cell phone to call her mother to tell her that she was on her way home but that the bus was delayed in traffic. A short time later, Ms. M. K. reportedly called her mother again to tell her that she was being forcibly removed from the bus. Her cell phone was then disconnected.

306. Prior to Ms. M. K.'s arrest, a demonstration had taken place near Mellat Park in Tehran. The protest had been organised to demonstrate against the arrest, on 11 June 2008, of Mr. A. P., a member of Iran's Majlis's (Parliament) Judicial Inquiry and Review Committee, who had apparently accused several senior Iranian officials of financial corruption. According to reports, security forces used tear gas and electric shock batons to disperse the crowd, and check points were also set up by security forces in Vali Asr Street which runs alongside Mellat Park. Several public buses were stopped and boarded by plain clothed officers.

307. According to reports, on the day Ms. M. K. was detained, her family was unable to ascertain her whereabouts despite enquiries made by her brother at Vozara detention centre. The following day, a fellow passenger who had been on the bus with Ms. M. K. returned her bag to her family, informing them that all the women on the bus had been removed by security officers, and that seemingly none of them had been involved in any demonstration.

308. On 14 June 2008, the Head of Tehran's Judiciary reportedly issued a press statement declaring that 200 people had been arrested the previous day and that those who were innocent or were suspected of committing only minor offences would learn about the status of their cases within a week. On 25 June, Ms. M. K.'s mother received a call from her daughter from Evin Prison saying that she was being held along with 90 other alleged female protesters. On 6 July, Ms. M. K. along with nine other women reportedly went on hunger strike to protest about the prison conditions. At that time they were all being held in a section of Evin Prison where detainees are not permitted visits. The protest ended after the other nine women were all released by 25 July. Ms. M. K. remained in detention but was moved to a 'general' section of Evin Prison, and was since then allowed weekly visits by her family.

309. According to reports, Ms. M. K. was charged with "acting against national security," and the Revolutionary Court in Mahabad has scheduled her next hearing for 1 November 2008. Ms. M. K.'s lawyer had reportedly only recently been allowed to see the court documents

concerning her case, and was to shortly meet with her for the first time since her arrest. The court set bail of one billion rials (approximately US\$ 110,000) on 12 July 2008. However, Ms. M. K.'s family had been unable to raise such a large amount of money.

### **Allegation letter**

310. On **26 August 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an allegation letter to the Government concerning Mr. A. Y. - A., a member of the Men's Committee of the One Million Signatures Campaign.

311. According to the information received, on 11 July 2007, Mr. A. Y. - A. was arrested in Andisheh Park in Tehran while collecting signatures for the One Million Signatures Campaign. He was taken to security police station in the park, and was detained there for 5 days. On 15 July 2007, Mr A. Y. - A. was transferred to Evin prison, where he was detained until his release on bail on 8 August 2007. During his detention in Evin prison, he was allegedly interrogated eight times blindfolded, facing a wall, and was harassed several times by the guards. During his detention, he was allowed no contact with his family.

312. On 25 May 2008, Mr. A. Y. - A. was convicted by the Revolutionary Court on charges of "endangering national security through spreading propaganda against the state". He was sentenced to one year in prison. Mr. A. Y. - A. was then freed on bail, while his sentence was being reviewed by Branch 54 of the Appeals Court.

### **Urgent appeal**

313. On **24 October 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government regarding the arrest of Ms. E. M., a member of the One Million Signatures Campaign and the branch of the Campaign for Equality in California, where she was a student.

314. According to the information received, on 15 October 2008, Ms. E. M. was arrested when driving on the Moddaress Highway in Tehran. Security officials who identified themselves as traffic police told her that she was being arrested for having illegally overtaken another vehicle. She was then detained at Evin Prison in Tehran although no charges had been brought against her; she was reportedly deemed at risk of torture or ill-treatment.

315. Ms. E. M. had been in Iran for approximately two months when she was arrested. During that time she visited her family and conducted research for her Master's thesis on the Iranian women's movement. Following her arrest she was taken to the home of her family, which was searched. Property was confiscated, including Ms. E. M.'s computer and material which was to be used for her thesis such as, video recordings of interviews with members of the Campaign for Equality in Iran. The officials had a warrant for Ms. E. M.'s arrest and a court permission to search the home of her family and confiscate property.

316. Following the search of Ms. E. M.'s family home, she was taken to Section 209 of Evin Prison. Her family was not allowed to see her but were told that, if they did not publicize her arrest, she would be released soon. Nevertheless, on 20 October 2008, when Ms. E. M.'s family again sought information on her case, they were told by officials of the Revolutionary Court in Tehran that the case was being investigated and that details would not be made public until the investigation was finished. It was only after this that Ms. E. M.'s family publicized her arrest.

### **Allegation letter**

317. On **8 September 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government concerning Ms. Z. B., a women's rights activist and member of the *Human Rights Organization of Kurdistan*, and the *Campaign for Equality*, a network of individuals working to end legal discrimination against women.

318. According to the information received, Ms Z. B. had been sentenced to four years' imprisonment and internal exile in Zanjan in August 2008 by the Mahabad Revolutionary Court. This sentence was upheld on 23 August 2008 by an appeal court in West Azerbaijan. Charges against Ms Z. B. included "being a member of unauthorized human rights associations" and participating in the Campaign for Equality.

### **Urgent appeal**

319. On **9 September 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government regarding the sentencing of Ms. P. A., Ms. N. K., Ms. J. J., and Ms. M. H., all members of the One Million Signatures Campaign.

320. According to the information received, on 2 September 2008, Ms. P. A., Ms. N. K., Ms. J. J., and Ms. M. H., were sentenced to six months' imprisonment for "publishing information against the State" after having written articles for *Zanestan* and *Tanir Bary Barbary*, two online newspapers which defend women's rights in Iran. Their sentences were appealed and they were released on bail.

### **Urgent appeal**

321. On **26 September 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an urgent appeal to the Government regarding: Mr. M. H., a young man sentenced to death for an offence committed as a minor; his mother, Ms. M.; and another woman sentenced to death, known as "Z."

322. According to the information received, in 2004, Mr. M. H., at the time aged 17, killed his father, who was allegedly addicted to alcohol and beating his wife Ms. M. (M. H.'s mother). The

court in Rasht found M. H. guilty of murder, and convicted also his mother Ms. M. as an accomplice to the murder, sentencing both to death. This death sentence was later confirmed by the Supreme Court.

323. On 30 November 2001, a woman known as “Z.” (full name not known) killed her husband. Reportedly, Z. had confessed to killing her husband and stated that her husband often drank large quantities of alcohol, struck her when she disagreed with him, and sexually abused her. Branch 1601 of the Penal Court in Tehran sentenced her to death as *qesas* (retribution). This sentence was subsequently confirmed by Branch 34 of the Supreme Court in Tehran. On 14 September 2008, the order for the death sentence was sent to the Office for Implementation of Sentences in Tehran. The family of the victim had requested that the execution of the death sentence take place as soon as possible.

#### **Allegation letter (follow-up)**

324. On **18 November 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent a follow-up letter to the Government of Iran expressing their deep concern regarding the crackdown on women’s rights defenders, and participants in the One Million Signatures Campaign in the Islamic Republic of Iran.

325. The Rapporteurs recalled that they had sent 18 joint communications concerning violations committed against over 70 human rights defenders involved in the campaign since 2006 and noted that they had until then only received three responses from the Government.

326. The Rapporteurs urged the Government of the Islamic Republic of Iran to hasten its efforts in answering the outstanding communications within the shortest possible timeframe.

#### **Urgent appeal**

327. On **21 January 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government regarding several cases of persons sentenced to death by stoning on charges of adultery.

328. On 26 December 2008, Mr. H. K. and another man whose name has not been reported to the Rapporteurs were executed by stoning in Mashhad. These executions were confirmed on 13 January 2009 by Mr. A. R. J., spokesperson for the judiciary. A third man, identified as a citizen of Afghanistan, named M. G., reportedly managed to free himself of the pit where he was to be stoned. He was again in custody.

329. Ms. G. M. and Mr. G. E. were arrested, possibly in 2003, on charges of adultery. In 2005 or 2006, they were tried and sentenced to death by stoning. The death sentences were possibly confirmed by the Supreme Court in 2008.

330. On 14 January 2009, two lawyers, Mr. M. M. and Ms. S. S., travelled to Esfahan Central Prison, where Ms. G. M. and Mr. G. E. were detained, to offer their services as lawyers. The prison authorities denied the two lawyers access to the detainees. Mr. M. M. and Ms. S. S. appealed to the judicial authorities in Esfahan, which ruled that the lawyers could contact the two convicts only if the detainees first asked to meet with lawyers.

331. The cases of Ms. Z. K. and Ms. A. K. were the subject of two urgent appeals dated 13 February 2008 and 30 July 2008, to which had not yet received any response. As stated in previous communications, Ms. Z. K. and Ms. A. K. were arrested on 5 February 2007 in connection with allegations of illegitimate relations other than adultery. On 17 March 2007, they were prosecuted in court, found guilty, and sentenced to 99 lashes. This sentence was executed. Thereafter, both women were returned to prison and another trial took place for the same charges and they were sentenced to death by stoning on 5 August 2007. Branch 27 of the Supreme Court confirmed the death sentences in 2007.

332. According to information received since then, the Head of the Judiciary subsequently quashed the death sentence imposed against Ms. Z. K. and Ms. A. K. and sent their case back to Branch 77 of the General Court in Karaj. This court reportedly again imposed the death sentence by stoning and, in the first half of January 2009, Branch 27 of the Supreme Court confirmed the death sentence.

333. The charges against Ms. Z. K. and Ms. A. K. were primarily based on evidence contained on a video footage in the camera of Z. K.'s husband, which he had allegedly secretly installed in his house, and which reportedly showed the two women with another man. It would appear that the lawyer defending the two women had never been able to view the video footage which was used as evidence by the court.

334. In the communication of 30 July 2008, the Special Rapporteurs further brought attention to reports received regarding the following other persons allegedly sentenced to death by stoning on charges of adultery: Ms. K. N., Ms. I. E., Ms. M. (S.) G., Ms. A.K., Ms. K. V., Ms. L. Q., and Mr. A. F. M. The Rapporteurs expressed regret at not having received a reply from the Government on those cases.

335. Reportedly, in 2002, the Head of the Judiciary issued a directive purporting to introduce a moratorium on executions by stoning. However, it was reported that at least four men and one woman had been stoned to death since 2002, including the two men stoned to death in Mashhad on 26 December 2008. On 13 January 2009, the spokesperson of the judiciary, Mr. A. R. J., reportedly stated that the directive on the moratorium had no legal weight and judges were therefore free to ignore it.

## **Observations**

336. The Special Rapporteur would like to thank the Government of the Islamic Republic of Iran for its response to some of her communications sent during the period under review. She considers responses to her communications to be an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the allegations in the remaining communications sent.

337. The Special Rapporteur also wishes to underline the challenges faced by women human rights defenders and requests that they be permitted to exercise their rights to freedom of assembly and freedom of expression. She considers that the arrest and detention of the members of the One Million Signatures Campaign may constitute a systematic attempt to curb these rights and urges the Government of the Islamic Republic of Iran to observe women's right to exercise their freedom to assemble peacefully. The Special Rapporteur was concerned at the arrests on charges of "disturbing public opinion" and "disruption of public order" on 26 March 2009 of twelve members of the One Million Signatures Campaign and Mothers for Peace in Tehran. The Special Rapporteur is thus pleased to have received recent information that as of the 08 April 2009, with the latest release on bail of Ms. M.K. and Ms. K.M. (released on 07 April and 08 April respectively), all twelve members had been released on bail, and would be interested in being kept informed on the developments with respect to the charges against these women.

## **Iraq**

### **Urgent appeal**

338. On **16 May 2008**, the Special Rapporteur on violence against women, its causes and consequences jointly with the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government regarding a reported gun attack against ASUDA, the Organisation for Combating Violence Against Women.

339. According to the information received, on 11 May 2008, unidentified gunmen opened fire on ASUDA's protection shelter for women. The fire was reportedly opened from an unoccupied house nearby. One of the residents of the shelter, a mother of three, was hit by three bullets and was hospitalised for treatment.

### **Observations**

340. The Special Rapporteur regrets that the Government of Iraq did not reply to her urgent appeal sent 16 May 2008. She reiterates her interest in receiving a response from the Government in regard to the allegations submitted and would be particularly interested to know whether the case has been investigated and resulted in any prosecution of alleged perpetrators.

## **Ireland**

### **Urgent appeal**

341. On **21 November 2008**, the Special Rapporteur on violence against women, its causes and consequences jointly the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government regarding Ms. P. I. and her two daughters N., aged 7, and J., aged 6, originally from Nigeria but resident in Ireland since January 2005.

342. According to the information received, Ms. P. I. had three children. Her eldest daughter E., died on 16 July 1994, when she was 18 months old, as a result of profuse bleeding arising from

the forcible perpetration of female genital mutilation (FGM) on her by the family of Ms. P.I.'s husband. On at least three occasions, members of the extended family tried to kidnap the two remaining girls, N., and J. On the last occasion, Mrs. P. I.'s husband was injured when he struggled with relatives to prevent them from taking his children. It was after this incident that Mrs. P. I. and her husband decided that for their safety, she and the children should leave Nigeria. As a result, Ms. P. I., together with her two daughters, claimed asylum in Ireland in January 2005 on the basis that she feared for the safety of her two younger daughters.

343. Ms. P. I.'s application for asylum was rejected by both the Office of the Refugee Applications Commissioner and the Refugee Appeals Tribunal. Deportation orders were issued for her and her two daughters in November 2005. Upon her arrest for deportation, a solicitor brought an application for judicial review in the high court, challenging the Minister for Justice's refusal to allow Mrs. P. I. to remain in Ireland on humanitarian grounds. These proceedings were concluded on 30 January 2008, resulting in a refusal to accept Ms. P. I.'s application for judicial review.

344. Ms. P. I. then applied for subsidiary protection, which was refused by the Minister for Justice. This refusal was again challenged for judicial review, which was granted on 19 March 2008. An injunction on their deportation order was also placed until 12 November 2008, pending a full hearing of her judicial review. The case was due to be heard in the high court on 6 November 2008. As a case with similar points of law was recently decided in the high court and appealed to the Supreme Court, it was agreed that Ms. P. I.'s case should await the outcome of the Supreme Court decision. However, at the time of writing of the letter, Ms. P.I. had still not been given a definite date for the judicial review and the State had refused to agree to extend the stay on their deportation orders until the hearing. In light of this, an application was made to the European Court of Human Rights under Article 34 to review the case of Ms. P.I.

### **Reply from the Government**

345. By letter dated 3 March 2009, the Government replied to the letter sent on 21 November 2008. It stated that Ireland's firm view was that Mrs P. I. had been afforded every opportunity to have her case examined and subjected to judicial scrutiny.

346. The Government also informed the Rapporteur that by letter dated 11 February 2009 the European Court of Human Rights (ECHR) formally communicated the application of Mrs P. I. and her daughters and invited the Government of Ireland to submit written Observations on the admissibility and merits of the complaints by the 22 April 2009. The ECHR requested that Mrs. P. I. and her daughters not be deported until further notice. Ireland replied that they would comply with the ECHR request.

347. The Government detailed every step of the judicial process, including Mrs P. I. and her daughters' application to refugee status, the initial recommendation on 24 February 2005 by the Office of the Refugee Applications Commissioner (ORAC) not to declare them eligible for refugee status, and the confirmation of ORAC's recommendation by the Refugee Appeals Tribunal on 22 June 2005. The Government stated that Ms P. I. did not seek to have these decisions judicially reviewed, despite having full legal representation.

348. The Government further stated that Mrs P. I. and her daughters failed to present to the Garda National Immigration Bureau (GNIB) on 5 December 2005 as notified, and that Ms P. I. was apprehended on 12 January 2006 and placed in detention.

349. On 13 and 18 January 2006 applications were made to the High Court for an extension of time to institute proceedings and bring Judicial Review Proceedings against the Deportation Order. On 30 January 2008, the High Court issued the decision refusing Ms P. I. and her daughters' application for judicial review.

350. By applications dated 4 March 2008, Ms P. I. and her daughters applied to the Minister, calling on him to exercise his discretion to allow them to apply for subsidiary protection under the Regulations (Regulation 4 (2) of the European Communities Regulations). Ms P. I. and her daughters were informed on 19 March 2008 that the Minister had decided to refuse to exercise discretion pursuant to Regulation 4(2). In fresh Judicial Review proceedings, the High Court granted Ms P. I. and her daughters leave to judicial review and consideration of the application for subsidiary protection. On 14 October 2008, the High Court upheld the manner in which the Minister had dealt with applications for subsidiary protection and following a two day hearing, refused an application on behalf of Ms P. I. and her daughters for an order to continue the injunction restraining their deportation. Ms P. I. and her daughters subsequently lodged an appeal to the Supreme Court challenging the decision of the High Court.

351. Ms. P. I. and her daughters' solicitor lodged a case with the ECHR on 11 September 2008.

352. In its reply to the communication, the Government also provided responses to specific questions, including regarding the measures and safeguards taken to ensure the protection of the human rights Ms. P.I.'s two daughters, should they be deported back to Nigeria. The Government referred to the fact that an individual is expected to avail himself or herself of State protection in their country of origin (where protection is available), as well as consider the relocation to another part of that country when such a safe relocation is possible. The Government also highlighted Ireland's obligations *vis-à-vis* the relevant safeguards in regard to expulsions.

### **Observations**

353. The Special Rapporteur would like to thank the Government of Ireland for its reply to the communication sent on 21 November 2008.

## **Kyrgyzstan**

### **Urgent appeal**

354. On **23 April 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the question of torture, the Special Rapporteur on the independence of judges and lawyers, and the Vice-Chairperson of the Working Group on Arbitrary Detention sent an urgent appeal to the Government regarding Ms. O. A., a self-employed market-woman.

355. According to the information received, Ms. O. A. had been recognised as *non compos mentis* (certifiably insane) by government authorities. On 18 February 2008 she went to the local

authority (*akimiat*) in Kerben, in order to lodge a complaint with Ms. K. O., because the electricity at her home had been cut. The representative refused to take her complaint arguing that she complained for no apparent reason, called her “crazy” and threatened to call the militia. Ms. K.O. asked her to report back on 20 February. When Ms. O. A. did so, she was arrested by three members of the militia whose first names were M., M. and A. The three men violently dragged her into a car, which caused her pain in her shoulders and armpits, and transferred her to the police station in Kerben.

356. At the police station, investigator M.A. reportedly threatened that she would be detained for many years if she did not sign a number of documents. Ms. O. A. signed 5 or 6 documents written in Russian, which she hardly understood since she is ethnic Kyrgyz and has difficulty reading and writing. Afterwards, Ms. O. A. was detained in a cell at the police station and raped by two police officers on guard during that night, one of whom was identified as I. After raping her the two officers beat Ms. O. A. again, hit her head against a wall and told her not to talk to anyone about the incident. She lost consciousness several times. The officers washed her with cold water from a plastic bottle. This reportedly resulted in cystitis.

357. Ms. O. A. attempted to commit suicide with 20 tablets of Carbamazepine, an anticonvulsant and mood stabilising drug used primarily in the treatment of epilepsy and bipolar disorder. She was unconscious when she was admitted to a hospital in Kerben, had to be artificially nourished, and only regained consciousness two days later on 22 February.

358. At the hospital she was handcuffed to her bed and guarded by policemen, making it impossible for her to go to the bathroom, which caused her much distress because of her cystitis. One of the police guards, identified by his first name A., threatened her again not to report the rape.

359. On 22 February she was summoned to the city court of Kerben on charges of hooliganism brought against her. Reportedly the presiding judge A. B. did not ask any questions or listen to her complaints. After the trial she was returned to the hospital. On 25 February 2008 she filed a complaint with the Deputy Prosecutor of Kerben, E. N., who came to the hospital following the intervention of a human rights defender on Ms. O. A.’s behalf. She remained in the hospital until 26 February when she was transferred to the Legal Examination Unit of the National Psychiatric Hospital in Kyzylzhar, escorted by three guards, one of whom was I. who had raped her at the police station. Ms. O. A. remained in custody at the National Psychiatric Hospital when the communication was issued.

360. On 17 March, a lawyer acting on behalf of Ms. O. A. contacted the Deputy Prosecutor in Kerben, Mr. N., who denied the lawyer a meeting. A complaint was submitted to the Prosecutor General’s Office in Bishkek on 25 March.

### **Reply from the Government**

361. By letter dated **4 August 2008**, the Government replied to the letter sent on 23 April 2008. It stated that on 20 February 2008, Ms. K. O. filed a complaint against Ms. O. A. with the Aksyisky district internal affairs office, accusing her of criminal mischief (hooliganism) committed against the complainant and her sister, Ms. N. M.

362. The government said that the investigation found that there were grounds for the complaint. Accordingly, on 20 February 2008, the internal affairs office's investigation service instituted criminal proceedings under article 234, part 3, paragraph 2, of the Criminal Code, dealing with criminal mischief (hooliganism).

363. On the same day, Ms. O. A. was arrested for the acts in question and taken into police custody at the Aksyisky district internal affairs office. On 22 February 2008, Ms. O. A., in the presence of counsel and of human rights defender Ms. S. V., was charged with the offence under the above-mentioned article and the Aksyisky district court issued a pre-trial restraining order authorizing her detention.

364. On 25 February 2008, the investigator called for a psychiatric report to be done, on an inpatient basis, to determine whether Ms. O. A. was fit to stand trial. On 14 March 2008, experts at the national psychiatric hospital in the settlement of Kyzyl Zhar-12 declared that Ms. O. A. was suffering from a psychological disorder, "epileptic dementia", and was thus incapable of understanding and controlling her actions. She was found to be unfit to plead her case, and it was recommended that she undergo compulsory treatment at a psychiatric hospital and be kept under routine observation.

365. On 27 March 2008, the Aksyisky district court issued a decision finding Ms. O. A. guilty of the offence in question, and she was sent to the psychiatric hospital in the settlement of Kyzyl-Zhar for compulsory treatment.

366. The government confirmed that on 23 February 2008 the head of the human rights NGO Nadezhda i Mir (Hope and Peace), Ms. S. V., filed a complaint alleging that Ms. O. A. had been raped on the night of 21 February 2008 while in custody at the Aksyisky district internal affairs office. The case in question was investigated by the Aksyisky district deputy *procurator*, Mr. E. M., who on 25 February 2008 ordered a forensic medical examination to be carried out. The Government added that on 26 February 2008, Ms. O. A., in the presence of the human rights defender, Ms. S. V., was unable to identify from among the staff of the Aksyisky district internal affairs office the persons who had allegedly raped her on the night of 21 February 2008.

367. The forensic medical report concluded that Ms. O. A. had sustained minor facial injuries in the form of superficial scratches, which might have been caused by an impact with a wall or the corner of a bed, or possibly by a fall. No signs of sexual assault were found. In light of the findings, the district procurator's office decided not to institute criminal proceedings. The material in question was examined by the Jalalabad provincial *procurator's* office, which found that the decision taken was justified.

368. The Government therefore concluded that the allegation that Ms. O. A. was raped by staff of the Aksyisky district internal affairs office has been found to be unreliable. It also underlined that Ms. O. A. has not filed a statement with the national *Procurator-General's* Office. The government added that the entire investigation of Ms. O. A.'s case took place with the participation of defence counsel and that the assertions that the investigator submitted for signature documents in Russian, without making them public, were untrue. It stated that the proceedings in the criminal case were conducted in the national language.

### **Allegation letter**

369. On **20 August 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the independence of judges and lawyers sent an allegation letter to the Government concerning the rape of a minor, Ms. V. of Uzbek origin, residing in Chui province.

370. According to the information received, Ms. V. was 13 years old at the time of the alleged commission of the crime. She was the victim of rape at least five times between 7 and 15 January 2008. The incidents happened in Jalalabat Province, Kyazyljar village.

371. On 7 January 2008 at night, two young men named A. T. and A. J. forced Ms. V. and her friend R. M. to drink alcohol, hit them, and raped them. They threatened to kill them if they told anyone what happened. The girls returned to their homes without mentioning the incident.

372. On the evening of January 10th, the two girls decided to flee from their homes. On 11 January, K. B., the son of a woman from the girls' village, who helped them hide, took the girls to his flat. With his friend M. T., he harassed and hit the girls. He then raped Ms. V. On 12 January, K. B. brought the girls to the house of Z. N., where another man was present named K. T. The girls were forced to drink alcohol and were beaten up. Three other men came whose names were K. M., A. O. and M. D. All of them hit the girls, threatened them with knives, and forced them to take unknown tablets. K. T. and Z. N. then raped Ms. V. and R. M. The girls were then thrown onto the street. On 13 and 14 January, the two girls accidentally met Z. N., who again raped Ms. V. twice.

373. On 15 January, the girls were found and reported to the police of Tashkumyr. A medical expertise conducted by the doctor K. in Shamalduusai the same day confirmed that Ms. V. suffered from wounds in her forehead, lips and shoulders, from concussion, and from pains in her abdomen and genital organs. Traces of different sperm were found on her.

374. A trial was held and four of the nine perpetrators were convicted and sentenced to 10 to 15 years imprisonment. One was recognized as mentally insane. The four others, A. T., K. M., M. D. and A. O., were not convicted.

375. On 22 January 2008, inhabitants of Kyzyljar gathered to discuss the rape of Ms. V. Among them were authorities, including the deputy of the village counsel A. D, representatives of three village *aksakal* (elderly men) counsels, the therapist of the district psychiatric hospital S. M., and the school principal S.A.A. The residents of the village reached the decision to evict the victim and her family from the village within 24 hours. The perpetrators' relatives further demanded that Ms. V. withdraw her complaint against the perpetrators, or else they would make sure Ms. V.'s family was evicted from the village. The village's inhabitants also decided to evict the girl from the school and to jointly act to try to release the assailants by writing a letter to the court explaining the "bad" behaviour of the girl victim.

376. In a statement signed by 104 inhabitants of the village and sent to the Administration of the President, they accused Ms. V.'s father-in-law of being the real perpetrator of the rapes, and alleged that Ms. V.'s family had asked relatives of the perpetrators for USD 50,000 in exchange

for the withdrawal of her complaint against them. The signatories of the statement further stated that Ms. V.'s mother often insulted the inhabitants on ethnic grounds. They finally demanded the reconsideration of the cases of the convicted perpetrators. On 9 July 2008, the prosecutor interviewed the victim's mother in Jalalabad Oblast, and later confirmed in writing that the allegations in the statement by the village's inhabitants were unfounded.

377. A petition was filed by Ms. V with a police investigator about the threats she endured from relatives of the convicted perpetrators and from the medical staff of the District Psychiatric Hospital during her treatment. The investigator refused to accept the complaint, saying that there was no basis for it, since she was not beaten. The petition was also sent to the Ministry of Health but she received no reply.

378. On 18 July 2008, the Jalalabad court accepted to reconsider the cases of the convicted men, upon receipt of the above-mentioned letter by the village's inhabitants. A. J., sentenced to a 15 year prison term in the first instance, was upon appeal, subsequently convicted and sentenced to a 2 year suspended term. Upon appeal, Z. N., who had also been sentenced to a 15 year prison term, was released, and the similar 15-year prison term for K. B. was reduced to 10 years. In the case of M. T., his 10 year sentence in first instance, was reduced to a 8 year prison term after appeal.

### **Reply from the Government**

379. On 10 November 2008, the Government replied to the communication sent 20 August 2008. At the time of publication of this report a translation of this response was not yet available.

### **Urgent appeal**

380. On **7 October 2008**, the Special Rapporteur on violence against women, its causes and consequences jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government regarding Ms. N. T. K., aged 18, resident in Talas.

381. According to the information received, Ms. N. T. K. was arrested at her home on 22 July 2008 by members of the Talas police on suspicion of theft. At the Talas police department, although she admitted having stolen a mobile phone, members of the police attempted to force her to confess to other thefts, which she denied. Ms. N. T. K. was undressed by a female police officer in front of male officers, who then severely beat her on the head, stomach and kidney. They also insulted her and threatened her with rape.

382. On 26 July, a human rights defender submitted a written complaint on Ms. N. T. K.'s behalf to the Office of the Prosecutor, asking for a medical examination and for an investigation into the harm Ms. N. T. K. had allegedly suffered. The resulting medical report confirmed the beatings she had suffered. Despite the complaint, the medical evidence and the fact that Ms. N. T. K identified one of the policemen who mistreated her as R., no investigation has so far been ordered into these events. At the time of writing, Ms. N. T. K remained in pre-trial detention in a cell at the Talas police department, awaiting trial in connection with the theft of the mobile phone.

### **Observations**

383. The Special Rapporteur would like to thank the Government for its reply to two of her communications sent during the period under review.

384. Nevertheless, she regrets that the Government of Kyrgyzstan did not reply to the communication sent on 7 October 2008. She reiterates her interest in receiving a response from the Government in regard to the allegation submitted and would be particularly interested to know whether the case has resulted in any prosecutions of alleged perpetrators.

## **Malaysia**

### **Allegation letter**

385. On **20 November 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people sent an allegation letter to the Government concerning sexual abuses against girls from the Penan Community in the Baram area, Sarawak.

386. According to the information received, since the arrival in the 1990s of logging companies in areas inhabited by the Penan community, workers from Malaysian companies, in particular I. and S., have been reported to harass and rape Penan women and girls. With the streams and rivers no longer navigable due to the logging activities, Penan children became dependent on company vehicles for accessing areas outside their settlements, including schools. Penan girls hitching rides to school and back are susceptible to abuses during their journey by workers of the logging companies. There have been cases of female students being driven to logging camps and raped when using transportation provided by the companies. In other cases, the transport operated by company vehicles were arranged in such a way that the girls had to stay overnight at a logging camp, where they were subject to abuses by workers.

387. In recent years, at least a dozen cases of sexual abuses have been reported to the police, although it is alleged that most of them have not resulted in convictions, thereby undermining trust in the police. In addition, it is said that the majority of cases remain unreported.

### **Observations**

388. The Special Rapporteur regrets that the Government of Malaysia did not reply to this communication sent on 20 November 2008. The Special Rapporteur reiterates her interest in receiving a response from the Government in regard to the allegations submitted and would be particularly interested to know whether these cases have resulted in any prosecutions of alleged perpetrators.

## **Mexico**

### **Carta de alegación**

389. El **18 de diciembre de 2007**, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con el Relator Especial sobre la situación de los

derechos humanos y las libertades fundamentales de los indígenas, enviaron una carta de alegación al Gobierno de México, en relación con las supuestas violaciones de la señora A. G. S. de 27 años de edad, indígena originaria de la comunidad de Chanalito, municipio de Chanal - violaciones supuestamente perpetradas por su empleador en el municipio de San Cristóbal de Las Casas, Chiapas.

390. Según las informaciones recibidas, desde el 17 de marzo hasta el 1 de octubre de 2007, la señora A. G. S. habría sido empleada doméstica en el domicilio particular del Señor R. S. P., en la Colonia San Juan del Bosque, en el municipio de San Cristóbal de Las Casas, Chiapas.

391. Se alega que durante estos meses, la Señora A. G. S. habría sido acosada sexualmente por su patrón, el Señor R. S. P. de aproximadamente 67 años de edad, quien habría ocupado cargos públicos en el Ayuntamiento de la ciudad de San Cristóbal de Las Casas y habría guardado una cierta influencia política en la ciudad.

392. El día 10 de abril del 2007, por orden del Sr. R. S. P. y con el argumento de ir a trabajar al restaurante de este, A. G. S. se habría subido al asiento trasero del vehículo de su patrón. Se alega que le hubiera ordenado callarse y esconderse en el asiento del coche, diciéndole, según se alega, que él era su patrón y que por lo tanto podía hacer con ella lo que quisiera indicándole además de manera racista, según las alegaciones, que ella es una indígena y él el patrón y por lo tanto él mandaba.

393. Según las informaciones recibidas, la señora A. G. S. habría sido llevada a la habitación de un hotel cuyo nombre y ubicación se desconocen, a las afueras de la ciudad. Se alega que en este hotel habría sido violada sexualmente por el Sr. R. S. P., quien además le hubiera amenazado, diciéndole, según las alegaciones, que si lo deseaba, la podía matar y pagar a alguien para que la enterraran. Al salir de la habitación, el Sr. R. S. P. le habría ordenado de nuevo que se mantenga oculta en el asiento trasero del coche.

394. El día 16 de abril, la señora A. G. S. habría sido nuevamente violada por su patrón en la casa de éste. Se alega que el Sr. R. S. P. es un hombre poderoso y que por temor A. G. S. habría seguido trabajando en ese lugar ya que habría sido amenazada por su agresor de no decir nada de lo sucedido porque él tenía mucho dinero y le haría daño a ella y a su familia.

395. El 1 de Octubre de 2007, la señora A. G. S. habría comenzado a ser nuevamente hostigada sexualmente por su patrón sin que esta vez llegara a ser violada. Esta situación habría durado hasta el día 3 de Octubre de 2007, día en que la señora A. G. S. habría denunciado estos hechos ante las autoridades de Procuración de Justicia en el estado de Chiapas, al Fiscal del Ministerio Público de la Mesa 3 Especial en Delitos Sexuales y Violencia Familiar del Ministerio de Justicia del Estado, iniciándose la Averiguación Previa 00304/IA01/2007. Además se habrían solicitado al Fiscal de Justicia Indígena del Ministerio de Justicia, medidas cautelares para garantizar la vida, integridad y seguridad personal de la víctima.

### **Llamamiento urgente**

396. El **28 de enero de 2008**, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con la Relatora Especial sobre la tortura, enviaron

un llamamiento urgente al Gobierno de México, en relación con la Sra. A. M. V. R. y las demás mujeres supuestamente víctimas de violencia sexual por parte de agentes de policía durante los incidentes en San Salvador Atenco el 3 y 4 de mayo de 2006.

397. Según información recibida, el día 3 de mayo del 2006, la Sra. A. M. V. R. detenida por la Policía en San Salvador Atenco, Estado de México. La Sra. V. habría sido transportada en un camión, junto con otros detenidos, al penal de “Santiaguito”. En el trayecto, varios policías habrían comenzado a tocarle los senos y a introducirle los dedos en la vagina. Se informa que dos de los policías la habrían forzado a practicarles sexo oral y a tragar su semen, mientras el resto continuaban tocándola e insultándola. A pesar de que fue obligada a mantener la cabeza agachada, ella habría logrado reconocer al policía D. B. M., uno de los oficiales que supuestamente la obligó a realizarle sexo oral.

398. El 28 de agosto de 2006, habría sido dictado el auto de formal prisión en contra de Blas Marcelo por el delito de “actos libidinosos” en contra de A. M. V. R. Sin embargo, se alega que este delito no refleja la magnitud ni la gravedad de las violaciones sufridas por la Sra. A. M. V. R., ya que contempla una pena menor a la prevista para el delito de violación sexual. También se informa que el delito de “actos libidinosos” no es considerado como grave, por lo tanto el Sr. D. B. M. se encontraría en libertad bajo caución.

399. Según las alegaciones, al menos 17 mujeres habrían sido sometidas a abusos sexuales como los sufridos por la Sra. A. M. V. R. durante los incidentes en Salvador de Atenco. Sin embargo, ningún agente policial habría sido consignado por el delito de violación sexual. Hasta la fecha, el Sr. D. B. M. es el único policía que habría sido formalmente acusado por abusos sexuales cometidos el 3 y 4 de mayo en San Salvador Atenco.

### **Llamamiento urgente**

400. El **10 de marzo de 2008**, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con el Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos enviaron un llamamiento urgente al Gobierno de México, en relación con la Sra. D. M. A. B., integrante del *Centro para los Derechos de la Mujer Nääxwiin*, asociación civil en donde la susodicha trabaja en programas de atención a mujeres indígenas víctimas de violencia familiar y de salud sexual y reproductiva con jóvenes, en el municipio de Matías Romero, en el estado de Oaxaca. En 2006, se habría abierto un expediente a la Sra. A. B. por su participación en la manifestación de Oaxaca. También en relación con el Sr. L. F. C. G., maestro y ex-Secretario de la sección 22 del *Sindicato Nacional de Trabajadores de la Educación* (SNTE).

401. Según la información recibida, el 7 de febrero de 2008, a las 8.20 de la mañana, un coche civil le habría seguido a la Sra. D. M. A. B. cuando se desplazaba a la ciudad de Juchitán. Un hombre dentro del vehículo le habría mostrado una tarjeta diciéndole que se detuviera. La Sra. D. M. A. B. habría parado cerca de la planta de Gas del Trópico, el hombre se habría bajado del coche y dicho: “Señora, muéstreme su identificación porque este auto está reportado como robado”.

402. Esta persona le habría dicho a la susodicha que abriera el capó del auto para que revisara el motor y que ella debía identificarse. Poco después, habría llegado un oficial de la Procuraduría

General de la República (PGR), que habría dicho a la susodicha que los dos eran agentes federales y que existía una orden para su aprehensión, mostrándole un documento en el que se veía su nombre.

403. Los agentes habrían llevado a la susodicha a las oficinas de la PGR de Matías Romero, donde se habría encontrado también detenido el Sr. L. F. C. G. Los agentes habrían avisado a ambos detenidos que los llevarían al médico para que certificara su estado de salud. Se informa que al salir del examen médico, el Comandante de la Agencia Federal de Investigación (AFI) le habría dicho a la abogada de la Sra. Á. B. que los llevarían al Centro de Readaptación Social para delitos del orden federal en Tehuantepec. Sin embargo, los policías habrían recibido una llamada y les habrían avisado a los detenidos que les trasladaban a las oficinas de la AFI de Salina Cruz.

404. Según se informa, la Sra. Á.B. no habría podido avisar a su familia del traslado. Sus familiares y su abogada los habrían buscado en Tehuantepec antes de ir al Juzgado VII de Salina Cruz en búsqueda de una liberación negociada puesto que, durante las negociaciones con la Secretaría de Gobernación se había acordado anular todas las órdenes de aprehensión emitidas durante el conflicto de 2006. Tras ocho horas detenidos, ambas persona habrían sido liberadas con el aviso de presentarse por su propia voluntad ante el Juez del Juzgado VII de Salina Cruz, no obstante lo cual, el 17 de febrero de 2008, se dictó un auto de formal prisión contra la Sra. Á. B. No se dispondría de información acerca del motivo de citada determinación judicial.

### **Llamamiento urgente**

405. El **26 de mayo de 2008**, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con el Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos, el Relator Especial sobre la independencia de magistrados y abogados, y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, enviaron un llamamiento urgente al Gobierno de México, en relación con la Sra. L. E. C. R. (conocida como L.C.), Directora del *Centro de Derechos Humanos de las Mujeres*, A. C. y abogada de la organización no gubernamental *Justicia para Nuestras Hijas*, quien trabaja en la defensa de los derechos de las mujeres en el contexto de la violencia de género y los femicidios en el Estado de Chihuahua.

406. De acuerdo con las informaciones recibidas, el 14 de mayo de 2008, la Sra. L. E. C. R. habría sido amenazada en dos ocasiones, a las 10 y luego a las 11 de la mañana, mediante llamadas a su teléfono celular. Durante la segunda llamada, el interlocutor le habría advertido “te va a llevar la chingada y a tu pinche Centro también”. Tras estas ocurrencias, la Sra. L. E. C. R. habría presentado una denuncia ante la Procuraduría estatal, donde habría solicitado que se le otorgaran medidas de protección y que se realizara una investigación de los citados hechos. Desde el 14 de mayo la Sra. L. E. C. R. estaría acompañada por dos agentes.

407. El 13 de mayo, la Sra. L. E. C. R. habría participado en una manifestación convocada por la ONG *Justicia para Nuestra Hijas*, con ocasión del quinto aniversario del asesinato de la joven Neyra Azucena Cervantes, quien fue asesinada en 2003, cuando tenía 19 años. Según se informa, esta amenaza también habría resultado a raíz de una declaración de la Sra. L. E. C. R., en la cuál se pronunció por la salida del ejército mexicano del Estado de Chihuahua. Anteriormente, la

susodicha, en su calidad de abogada de la organización *Justicia para Nuestras Hijas*, se habría manifestado en contra del nuevo sistema de justicia penal que entró en vigencia a principios de 2008, el cual, según la Sra. L. E. C. R., no lograría una mayor protección de las mujeres, respecto a la violencia familiar.

408. Cabe recordar que, según cifras de organizaciones de derechos humanos, más de 430 mujeres y niñas han sido asesinadas en el Estado de Chihuahua, junto con Ciudad Juárez, desde 1993 hasta la fecha, y que más de 40 están en paradero desconocido. De acuerdo con las recomendaciones de la Relatora Especial sobre violencia contra la mujer tras su visita a México en 2005 (E/CN.4/2006/61/Add.4), se insta al Gobierno de Su Excelencia a que investigue con la debida diligencia estos asesinatos y desapariciones forzadas, así como todos los supuestos actos de violencia contra la mujer, para poner fin a la impunidad de quienes cometen estos crímenes.

### **Respuesta del Gobierno**

409. Mediante carta fechada **10 de junio de 2008**, el gobierno respondió al llamamiento urgente. La carta comunicó que debido a la trascendencia a nivel nacional e internacional de los asuntos mencionados en el llamamiento urgente, el gobierno de México procedió de inmediato a solicitar ante la Comisión Interamericana de Derechos Humanos la implementación de medidas cautelares, a favor de las señoras L. E. C. R., M. O. R., M. L. G. A. y N. A. Asimismo, se está en espera de recibir información solicitada a las autoridades competentes. Una vez que se cuente con la información se hará de su conocimiento.

### **Llamamiento urgente**

410. El **4 de junio de 2008**, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con el Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos, y el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, enviaron un llamamiento urgente al Gobierno de México, en relación con las Sras M. O. R., M. L. G. A. y N. A., y las demás integrantes de *Nuestras Hijas de Regreso a Casa*, una organización que lucha contra la impunidad de los secuestros y los femicidios cometidos en Ciudad Juárez, Estado de Chihuahua.

411. De acuerdo con las informaciones recibidas, el pasado 25 de mayo las integrantes de la citada organización habrían recibido un correo electrónico acusándolas de beneficiarse de la película *Ciudad del Silencio*, la cual está basada en los femicidios ocurridos en Ciudad Juárez desde 1993. Asimismo, el correo habría proferido graves amenazas de violación y muerte contra las integrantes de la organización y sus hijas, nombrando a M. O. R. y M. L. G. A.

412. La citada película se estrenó el pasado 16 de mayo en Ciudad Juárez. Según se informa, en los días previos al estreno, las integrantes de *Nuestras Hijas de Regreso a Casa* habrían recibido mensajes SMS a sus teléfonos celulares de carácter amenazante, alegando que éstas se estarían beneficiando de la película y afirmando que serían investigadas y encarceladas.

413. Se alega que los incidentes aquí resumidos podrían estar directamente relacionados con las actividades de las susodichas en defensa de los derechos humanos, en particular los derechos de

la mujer. En vista de estas amenazas, se expresa seria preocupación por la integridad física y psicológica de las mujeres integrantes de *Nuestras Hijas de Regreso a Casa*, sobre todo aquellas aquí nombradas. Se reiteran las opiniones expresadas en la comunicación del 26 de mayo de 2008 con respecto a la impunidad de la violencia contra la mujer en Ciudad Juárez, así como el llamado al Gobierno a investigar con la debida diligencia estos asesinatos y desapariciones, e identificar a quienes perpetran estos crímenes.

### **Respuesta del Gobierno**

414. Mediante carta fechada **10 de junio de 2008**, el gobierno respondió al llamamiento urgente. La carta comunicó que debido a la trascendencia a nivel nacional e internacional de los asuntos mencionados en el llamamiento urgente, el gobierno de México procedió de inmediato a solicitar ante la Comisión Interamericana de Derechos Humanos la implementación de medidas cautelares, a favor de las señoras L. E. C. R., M. O. R., M. L. G. A. y N. A. Asimismo, se está en espera de recibir información solicitada a las autoridades competentes. Una vez que se cuente con la información se hará de su conocimiento.

### **Carta de alegación**

415. El 24 de junio de 2008, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, enviaron una carta de alegación al Gobierno de México, en relación con la Sra. L. C. R.. La Sra. L. C. R. es escritora, periodista, y Presidenta del *Centro de Crisis para Víctimas, Centro Integral de Atención a las Mujeres (CIAM)*, una organización que tiene como objetivo brindar apoyo a mujeres, niños y niñas, víctimas de la violencia y la explotación sexual, en Cancún, Estado de Quintana Roo.

416. De acuerdo con las informaciones recibidas, el 2 de junio de 2008, el juez B. N. del estado de Quintana Roo se habría negado a emitir órdenes de aprehensión contra funcionarios y ex servidores públicos del estado de Puebla, implicados en acusaciones contra L. C. R., efectivamente cerrando la investigación del caso de la periodista. El juez habría afirmado que su decisión se debía a que su jurisdicción no se extendía a los funcionarios de otro estado.

417. La Procuraduría General de la República había solicitado que el juez de Quintana Roo emitiera las órdenes de captura contra diversos funcionarios del estado de Puebla, entre otros, la ex procuradora y un ministerio público estatal por presunta manipulación de la documentación relativa a la detención de la periodista. Asimismo, se habría solicitado la emisión de órdenes de captura contra un comandante y agentes judiciales, quienes habrían detenido a L. C. R. de manera arbitraria el 16 de diciembre de 2005 en Quintana Roo y la habrían trasladado a Puebla para afrontar un proceso penal por difamación, iniciado por el empresario K. N., quien había sido acusado por la periodista de formar parte de una red de pornografía infantil.

### **Respuesta del Gobierno**

418. Mediante carta fechada 29 de agosto de 2008, el gobierno respondió al llamamiento urgente. La carta informó que el 11 de junio de 2008, Sra. R. S. denunció supuestos hechos de

amenazas y lesiones ante el Ministerio Público, dando inicio a una investigación. La investigación continúa abierta para su perfeccionamiento. Asimismo, la carta comunicó que la medida de protección implementada por el Estado mexicano para salvaguardar la vida e integridad de la Sra. R. S. es la de llevar a cabo una investigación exhaustiva respecto de los hechos denunciados.

### **Observaciones**

419. La Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, agradece la información proporcionada por el Gobierno con relación a tres de las seis comunicaciones de 2008 y reitera su interés en recibir respuestas en relación con las otras alegaciones sometidas.

420. The Special Rapporteur would like to thank the Government of Mexico for its reply to three of the six communications sent during the period under review. The Special Rapporteur would also like to reiterate her interest in receiving a response from the Government in regard to the remainder of the allegations sent.

## **Myanmar**

### **Urgent appeal**

421. On **2 October 2008**, the Special Rapporteur on violence against women, its causes and consequences jointly with the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government regarding Ms. N. T., aged 36, a human rights defender and pro-democracy activist.

422. According to the information received, Ms. N. T., a leader of the democratic opposition in Myanmar, was arrested on 10 September 2008 on her way to visit the mother of Mr. A. B. K., another detained activist, in a suburb of north eastern Yangon. At the time of the appeal, she was being detained and interrogated at Aung Tha Pyay Detention Centre in Yangon.

423. Mr. A. B. K. and Ms N. T.'s husband, Mr. K. M. Y. (also known as K. J.), were among thirteen members of the so-called "88 Generation Students Group" who were arrested on 22 August 2007. The following day, Ms. N. T. led around 500 people in a demonstration in Yangon to demand the release of fellow activists and to continue the protest against the sudden increase in fuel prices that had been imposed by the Government on 15 August 2007. Thereafter, Ms. N. T. went into hiding, forced to leave her baby daughter in the care of her family.

### **Observations**

424. The Special Rapporteur regrets that the Government of Myanmar did not reply to this communication sent on 2 October 2008 and reiterates her interest in receiving a response from the Government in regard to the urgent appeal submitted.

## Nepal

### Urgent appeal

425. On **16 July 2008**, the Special Rapporteur on violence against women, its causes and consequences jointly with Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government concerning Ms. L. B., member of the *District Alliance of Women Human Rights Defenders*, advocate of the right of women to good health, and Secretary of the *Women's Empowerment Centre*, and other women human rights defenders in Western Nepal.

426. According to information received, on 6 June 2008, Ms. L. B. died when she took, or was forced to take, poison after having been physically abused by her husband. The work of Ms. L. B. in defence of women's rights had caused major disagreement between her and her husband, as well as her husband's family. She had been physically abused by her husband and her mother-in-law and thrown out of the house on previous occasions.

427. The police registered a First Information Report (FIR) on murder charges on 16 June, following intense advocacy by human rights defenders including the National Human Rights Commission, and international organizations. The husband of the deceased was arrested on 17 June and her mother-in-law soon after.

428. It is alleged that the police investigation, which concluded that Ms. L. B. was not forced to take poison, was inadequate and insufficient. The police investigation was completed on 2 July and the case was submitted to the District Court. The mother-in-law was released on 2 July based on an order of the Public Attorney and the husband was released on bail, on 4 July based on an order of the District Court.

429. Since the filing of the FIR, the Alliance of Women Human Rights Defenders in Kanchanpur district, in particular the Secretary of the District Alliance of Women Human Rights Defenders, were allegedly subject to an intimidation campaign by friends and family of Ms. L. B.'s husband and mother-in-law. On 2 July the Alliance submitted a written complaint to the police listing several security incidents in this respect. The police response to the complaint was allegedly inadequate, and no investigation was conducted.

430. As of 13 July, the women human rights defenders from mid-Western and far Western Nepal went on a relay hunger strike in Maitighar Mandala in Kathmandu, demanding a Commission to investigate the killing of Ms. L. B., as well as to address all forms of violence against women, and guarantee the security of women human rights defenders.

### Urgent appeal

431. On **25 July 2008**, the Special Rapporteur on violence against women, its causes and consequences jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government concerning members of the *National Alliance of Women Human Rights Defenders* (NAWHRD), Ms. B. S., Ms S. C., Ms. N. S. and Ms. K. M.

432. According to the information received, on 21 and 28 June 2008, Ms. B. S. received anonymous telephone calls, threatening that she would face “bad consequences” if she continued with her investigations into the death of Ms. L. B., a member of the District Alliance of Women Human Rights Defenders, advocate of the right of women to good health, and Secretary of the Women’s Empowerment Centre who died on 6 June 2008, when she took, or was forced to take, poison after having been physically abused by her husband. On 17 June Ms. K. M. received as well an anonymous threatening telephone call. Ms. S. C. has also been the victim of over twelve anonymous telephone calls in which she has received death threats and has been told not to intervene in Ms. L. B.’s case. On one occasion she was told that the members of the NAWHRD would be killed within seven days if investigations into Ms. L. B.’s case continued. Furthermore, in the morning of 27 June 2008, Ms. S. C. was knocked down by an unknown motorcyclist. She sustained minor injuries. That afternoon Ms. N. S. and Ms. K. M. were returning from a meeting of women human rights defenders by motorcycle when an unknown cyclist tried to stop them twice and briefly pursued them. On 2 July, Ms. S. C., Ms. K. M. and Ms. B. S. filed a joint complaint on those incidents at the Kanchanpur District Police Office.

433. In the afternoon of 2 July 2008, a group of twenty or thirty men reportedly led by the brother of the late Ms. L. B.’s husband came to the district office of the NAWHRD and threatened Ms. S. C. The mother-in-law of the late Ms. L. B. also went to the office with a group of women and shouted that the office should be set on fire and Ms. S. C. should be killed. The crowd surrounded and entered her office, but was dispersed shortly after upon arrival of the police. Ms. S. C. was also threatened by a similar group which had gathered outside her house. Ms. S. C. filed two written complaints and some additional verbal complaints at the Kanchanpur District Police Office about these incidents.

### **Urgent appeal**

434. On **14 January 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government regarding the killing of Ms. U. S., a journalist with *Janakpur Today Daily* and *Radio Today FM* and member of the Women Human Rights Defenders Network in Dhanusha, and alleged threats against Ms. M. J., journalist with the *Kathmandu Post Newspaper* in Janakpur.

435. According to information received, on 11 January 2008, around 15-20 men wielding blunt objects and *khukuri* knives surrounded the room which Ms. U. S. rented in Janakpur. Several of the assailants then entered Ms. U. S.’s room where they began to attack her. When Ms. U. S. tried to resist the assault, she was dragged outside onto the veranda where the attack continued. Ms. U. S. sustained serious injuries, including stab wounds, to her face, head, neck and stomach. Following the attack, neighbours immediately rushed Ms. U. S. to the nearest hospital. Ms. U. S. died before midnight while being transferred by road to a hospital in Kathmandu. A police investigation was launched into the incident. However, as yet a motive for the killing has not been established.

436. A few hours after the attack on Ms. U. S., an unidentified group of approximately 6 men began banging on the corrugated iron gate outside Ms. M. J.’s house in Janakpur. The men then

jumped into the compound and broke her bedroom window. Ms. M. J. alerted the police by text message and asked her uncle, who lives next door, for help. He raised the alarm and people within the neighbourhood started gathering in the vicinity. A short time later, a police van also arrived on the scene and the attackers fled. At some point before they fled, the assailants reportedly threatened Ms. M. J. that she 'would be next'. Following the incident, Ms. M. J. was provided with security protection throughout the night. The next morning, she found that a cross had been drawn with mud/clay on the metal gate outside her house.

437. Ms. U. S. was an active journalist who, prior to her death, had written articles covering women's rights, including criticism of the traditional dowry system, and local political issues. She started working as a journalist after her father and brother were abducted in September 2006, allegedly by the Maoists. Their whereabouts remain unknown. In December 2008, Ms. U. S. had reportedly received threats from an unidentified source, while Ms. M. J. had been receiving threats in a regular basis since November. Ms. U. S. and Ms. M. J. had purportedly informed the local authorities about the threats, however no action was taken.

### **Acknowledgment receipt**

438. On **29 January 2009**, the Government of Nepal acknowledged receipt of the communication.

### **Observations**

439. The Special Rapporteur regrets that the Government of Nepal did not reply to any of the three urgent appeals she submitted during the period under review. She reiterates her interest in receiving responses from the Government in regard to the allegations submitted and would be particularly interested to know whether these cases have resulted in any prosecutions of alleged perpetrators.

## **Nicaragua**

### **Carta de alegación**

440. El 14 de enero de 2008, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con el Representante Especial del Secretario-General para los defensores de los derechos humanos, enviaron una carta de alegación al Gobierno de Nicaragua, en relación con las Sras.: A. M. P.; J. A. J.; L. N. G.; M. M. B.; L. M. A.; M. M. A.; M. S.; Y. M. P. y V. D. S.. Las personas mencionadas son líderes de organizaciones de mujeres y niñez. Ellas forman parte de diferentes redes y movimientos, incluyendo la Red de Mujeres contra la Violencia, la Coordinadora de la Niñez y Adolescencia en Nicaragua y Campaña 28 de septiembre.

441. Según información recibida: las Sras. A. M. P.; J. A. J.; L. N. G.; M. M. B.; L. M. A.; M. M. A.; M. S.; Y. M. P. y V. D. S. habrían sido denunciadas ante el Ministerio Público por supuestos delitos contra la administración de justicia. Se informa que ellas habrían solicitado una copia de la denuncia desde el 29 de diciembre del 2007, pero el Ministerio Público les habría negado acceso a esta información. Según nuestras fuentes, la Fiscal M.S. H., del Ministerio Público, se habría limitado a hacer una lectura oral de dicha denuncia.

## Respuesta del Gobierno

442. Mediante carta fechada 13 de mayo de 2008, el Gobierno respondió a la Carta de Alegaciones. La carta comunicó que el 9 de octubre del 2007, el Licenciado R. J. P. en su calidad de representante legal de la Asociación Nicaragüense Pro derechos Humanos (ANPDH), presentó escrito ante el Ministerio Público en el que denuncia a las señoras Sras A. M. P., J. A. J., L. N. G., M. M. B., L. M. A., M. M. A., M. S., Y. M. P., V. D. S. y M. S. E. R., “en el grado de cooperadoras necesarias del delito de violación y autoras del delito de aborto en perjuicio de la adolescente R. R., delito contra la administración de justicia y autoras de los delitos de asociación e instigación para delinquir y de la apología del delito en perjuicio de la sociedad del Estado nicaragüense - misma que fue presentada nuevamente el 32 de octubre del 2007, siendo radicadas ambas en el Ministerio Público bajo el No 4849 y 5522, respectivamente”.

443. Según la carta, una niña de nacionalidad nicaragüense, a mediados del año 2002, en Turrialba, Costa Rica, fue víctima del delito de violación, y que producto de la violación, la víctima quedó embarazada. Que, el 8 de febrero del año 2003, la Sra. V. D. se reunió en la sede de la “La Red de mujeres contra la violencia” para informar a las instituciones del Estado, que ellas (las denunciadas) habían decidido y acordado intervenir en el caso para interrumpir el embarazo de la niña, por lo que enviaron a un grupo de mujeres a Costa Rica, quienes tenían la misión de llevarse a escondida la niña, acción que ejecutaron al esconderla en un motel en San José, Costa Rica.

444. La carta comunicó que las leyes de Costa Rica no permiten el aborto terapéutico después de las 12 semanas de embarazo, e que las señoras denunciadas realizaron las siguientes acciones; entre el 10 y 11 de febrero del año 2003, la niña fue sacado del Hospital Calderón Guardia en San José, Costa Rica, y escondidas en el motel “Los Yoses” en contubernio con el Sr. F. L. F. S., padrastro de la niña y su madre M. Á. E. R. El 12 de febrero, junto con la niña, se trasladaron a Nicaragua, obstruyendo el proceso de justicia judicial que se llevaba en Costa Rica, impidiendo además que el Estado de Nicaragua brindara debida protección a los derechos de la niña. Asimismo, las denunciadas coludidas con el Sr. F. L. F. S, padrastro de la niña, y hoy confeso del delito de la violación en perjuicio de la menor, promovieron el aborto de la niña en una clínica particular clandestina. El 9 de agosto del 2007, la autoridad administrativa ordenó el traslado de la adolescente a un centro de protección.

445. La carta informó que en cuanto a las acciones desplegadas para la aclaración de los hechos denunciados, el Ministerio Público se encuentra realizando actos de investigación en aras de obtener elementos de convicción que permitan establecer con certeza los hechos referidos en las denuncias. El Ministerio aún no ha determinado si procede o no el ejercicio de la acción penal, por lo que aun continúan la investigación. Asimismo, el Gobierno aseguró que informará sobre las acciones desplegadas para esclarecer los hechos denunciados por el Sr. R. J. P. una vez que concluya la etapa investigativa.

## Observaciones

446. La Relatora Especial agradece al Gobierno de Nicaragua la respuesta proporcionada a su comunicación de 14 de enero de 2008.

447. The Special Rapporteur would like to thank the Government of Nicaragua for its reply to her communication of 14 January 2008.

## Norway

### Urgent appeal

448. On 6 March 2009, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, 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 torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government regarding Ms. E. H. A., aged 20, resident in Stavanger.

449. According to the allegations received, on 24 May 2005, E. H. A., at that time aged 16, was involuntarily admitted to the psychiatric ward of the Stavanger University Hospital. She had been taken there by a school consultant without her parents being informed or consulted although she had no previous history of violent or other disturbing behaviour. Since then, she has been kept at the hospital, including in solitary confinement at different periods.

450. According to her mother, Ms. E. H. A. had gone through a difficult period, related to a possible sexual assault a few months earlier. This incident was reported to the police, but the case was dismissed by the police authorities due to the lack of evidence.

451. Ms. E. H. A. has been forcibly administered different types of psychiatric drugs, despite her parents' repeated objections. The doctors' diagnoses have changed many times and do not appear to be consistent. Since her confinement, Ms. E. H. A.'s condition has deteriorated drastically: she allegedly has suffered from spasms, eyes rolled up in their sockets (dystonia), severe motoric restlessness (akathisia), memory problems, compulsive actions, incontinence, psychoses, dry mouth, teeth damage, inflammation of the gums and gross weight gain, among others. Ms. E. H. A. may even have sustained brain damage due to the extensive use of neuroleptics and other psychoactive drugs.

452. After her mother publicly criticized her treatment, her visiting rights were restricted and eventually denied for more than one and a half years between 2006 and 2007, and again for one year in 2008. The father's visiting rights have been severely restricted as well (see table below). Following a complaint, the Control Commission concluded on 26 September 2008 that the decision to deny the parents visits for one year was illegal, but that Ms. E. H. A. should remain under involuntary admission.

453. For their part, the Regional Supervisory Authorities (Helsetilsynet) concluded on 16 July 2008 that the hospital violated Ms. E. H. A.'s legal rights related to free and informed consent to health care and the right to participation. However, on 4 December 2008, the Stavanger University Hospital filed a complaint asking for the father to be replaced as a legal guardian.

454. An application for free legal assistance filed on 6 November 2008 on behalf of Ms. E. H. A. was rejected by the authorities (Fylkesmannen) on 11 December 2008. Her father's

appeal against the decision was rejected on 30 January 2009. A further appeal was pending. The decision rejecting the application for legal aid states inter alia that, since the issue in question is not of such great significance for Ms. E. H. A.'s welfare and her parents, it would not be reasonable that the public treasury pay for free legal aid.

455. Due to a lack of sufficient legal advice the parents of Ms. E. H. A. were not aware of the possibility to challenge the decision of the Control Commission of 26 September 2008 before a court of law pursuant to chapter 7 of the Norwegian Mental Health Care Act and chapter 36 of the Civil Procedure Act.

### **Observations**

456. The Special Rapporteur regrets that the Government of Norway did not yet reply to this communication. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised.

## **Pakistan**

### **Urgent appeal**

457. On **12 March 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the question of torture sent an urgent appeal to the Government regarding Ms. S. N. and her husband Mr. A. Y., in Lahore, Pakistan.

458. According to the information received, in July 2004, Mr. A. Y. was kidnapped and detained in Faisalabad by the 'Bajwa gang', whose head is M. B., and some police officers including B. N. H. are members of this gang. Upon receipt of 2.2 millions rupees he was released. A. Y. and S. N. complained to Superintendent K. A. about the kidnapping but he and other police officers arrested A. Y., illegally detained him and asked for 1.4 millions rupees. When they demanded an additional 5 millions rupees, his wife filed a writ at the Lahore High Court for her husband's release, but to no avail. It is alleged that the Chief Justice of Lahore High Court is a close relative of SP K. A. Ms. S. N. also complained to the national accountability bureau, but Brigadier A.U. refused to register her case. All of Ms. S. N.'s properties were confiscated. Mr. A. Y. was finally released although the circumstances of his release are unclear.

459. In April 2005, Ms. S. N. went to the Parliament to make a complaint but was taken to jail. She was released on bail, and a few days later was kidnapped by four persons outside her house in Johar Town, Lahore. She was then taken to an unknown place and allegedly raped and ill treated by SP K. A. and Inspector J. C. in the presence of several other persons.

460. On 2 September 2005, Ms. S. N. recorded her statement before the inquiry committee Chief Deputy Inspector General (DIG) Z. A. Q., at the Office of the Human Rights Commission of Pakistan (HRCP). On that occasion, the victim presented some evidence, such as her clothes that the perpetrators had torn apart, several marks on her body and eye witnesses who saw her injured after she had been ill-treated.

461. Subsequently, Ms. S. N.'s lawyer, A. J., filed a writ petition at the judicial tribunal in the Supreme Court of Pakistan, which ordered the police to register Ms. S. N.'s First Information Report. However, the police only registered it three months later and offered no protection to Ms. S. N. At that point, a judicial proceeding on the case began at the trial court. On 17 October 2005, the Supreme Court ordered the immediate arrest of SP K. A., Inspector J. C. and eight other policemen on charges of abduction, torture and rape. Nonetheless, on 24 November 2005, the district and sessions court in Lahore granted bail to the perpetrators. The victim's lawyer, Ms. A. J., wrote many letters to the Government requesting protection for Ms. S. N., but no protection was made available and she and her children have been regularly ill-treated or attacked by SP K. A. and Inspector J. C. and by other members of the police. The same group of persons also prevented her from physically reaching the Court in January 2007 so that in March 2007 the case was dismissed.

462. On 7 May 2007, the victim was going to her lawyer's office to prepare an appeal to be lodged at the High Court but in front of A. J.'s office some police officers, under the orders of Punjab Chief Minister P. E., kidnapped her again and kept her in an unknown location for approximately six months.

463. During that period, the victim was filmed naked and taken pictures of. She was also placed in a grave. Moreover, she was allegedly raped by SP K. A. and his two sons in law, MNA Federal Minister S. M. Gill and MPA Provincial Minister J. M.G., both close relatives of Punjab Chief Minister P. E.

464. Ms. S. N. was finally released and is currently in hiding. She fears being taken and ill-treated by the police if she tries to contact her lawyer again.

### **Reply from the Government**

465. By letter dated **24 June 2008**, the Government replied to the letter sent on 12 March 2008. The Government informed that the husband of Ms. S. N., Mr. A. Y., was an employee of the Excise Department, and involved in the registration of stolen vehicles. He was suspected in a number of criminal cases and was taken into custody, more than one year ago, but escaped. He has been declared a fugitive. During the judicial inquiry, sufficient evidence was provided to show that Mr. A. Y. is still alive and was in contact with his wife, and a few other individuals, during the last year. The allegation that Ms. S. N.'s husband was killed was incorrect.

466. The Government also stated that Ms. S. N. filed a petition before the High Court, Lahore that was dismissed on 13 July 2005. Neither Ms. S. N. nor her husband ever appeared before any court or tribunal after levelling the allegations of atrocities and gang rape committed by police officials. Ms. S. N. regularly met with the process server on each hearing date of the tribunal but did not appear before it.

467. The government further stated although the media reported on 30 August 2005, that Ms. S. N. was abducted by the police in the first week of May 2005 and raped, she had never levelled such allegations during the hearing before the High Court, and these allegations were

never proven. The government further stated that the tribunal had recommended inter alia, the prosecution of Ms. S. N. on the ground that she published accusations without proof and thereby harmed the reputation of the accused, and Mr. A. K. should be subjected to disciplinary sanctions following the escape of Mr. A.Y. from police custody.

### **Urgent appeal**

468. On **18 June 2008**, the Special Rapporteur on violence against women, its causes and consequences sent an urgent appeal to the Government regarding threats to the lives of Ms. Sr. and her husband Mr. M. A. J., residing in Qazi Ahmed Pura, District Nawabshah, Sindh province, Pakistan, and of Ms. Sm. and her husband Mr. B. Z., residing in Barrage colony, Rohri Sukkur District, Sindh province.

469. According to information received, Ms. Sr., a 26-year-old woman, had recently embraced Islam and married M.A. J. They married on their own accord, without any pressure or coercion. However, on 12 March 2008, Ms. Sr.'s father, Mr. K. L., lodged a First Information Report (N° 31-2008) at Qazi Ahmed Police Station, accusing her husband of kidnapping her.

470. On 31 March 2008, the couple approached the Sindh High Court, requesting immediate action and seeking protection from honour killing, because Ms. Sr.'s parents had declared her and her husband *Karo-kari* and attempted to kill both of them. The couple has reportedly been harassed by the family and also by the Station House Officer of Qazi Ahmed Police Station.

471. A division bench of the Sindh High Court issued notices to the Station House Officer of Qazi Ahmed Police Station, and also to the investigation officer. The aim of those notices was to know the reasons why relevant authorities did not investigate the case.

472. Ms. Sm., a 22-year-old woman residing in Barrage colony, Rohri Sukkur District, Sindh province, had recently embraced Islam. She changed her name from Sd. to Sm. and married Mr. B. Z. Her father, Mr. B. L., lodged a complaint against both of them at the Rohri police station.

473. After receiving life threats from Ms. Sm.'s family, on 3 April 2008, the couple came to Justice Farrukh Zia Sukkur Bench to seek protection. Ms. Sm. declared that she had married Mr. B. Z. on her free will and that the allegations referring to abduction and rape were false and baseless. The Sindh High Court Sukkur Bench adjourned the hearing for unknown reasons. According to the information received, no decision had been made.

474. Threats to the lives of Ms. Sr. and her husband Mr. M. A. J., and of Ms. Sm. and her husband Mr. B. Z. should be placed in a context of a widespread practice of honour killings and *Karo-Kari* in Pakistan. According to sources, it is reported that honour killings, carried out for incidents that are perceived as dishonouring the family, such as marriage of choice, seeking divorce or other pretexts used to discard the woman in particular, have exceeded 300 victims in 2007.

475. The practice of *Karo-Kari*, which refers to punishment for adultery consists in killing a woman after having publicly humiliated her. Despite legislation passed in 2004 prohibiting these practices, *Karo-Kari* has allegedly resulted in the same number of victims as honour

killings in 2007. In particular, in the Sindh province, many *Karo-Kari* graveyards exist where unnamed women have been buried at night without having been given a proper burial ceremony.

476. Concerns were expressed for the immediate physical safety and security of Ms. Sr. and her husband Mr. M. A. J., and of Ms. Sm. and her husband Mr. B. Z.

#### **Acknowledgment receipt**

477. On **18 June 2008**, the Government of Pakistan acknowledged receipt of the communication.

#### **Allegation letter**

478. On **3 July 2008**, the Special Rapporteur on violence against women, its causes and consequences, sent an allegation letter to the Government concerning the stoning to death of Ms. S., a 19-year-old woman from Deen Bahar Colony, Peshawar's Mohmand Agency, in the Federally Administered Tribal Areas.

479. According to the information received, Ms. S., had allegedly eloped in early March 2008 with Mr. D. K. M., who came from Bara.

480. On 15 March 2008, Dr. A., a spokesman of the Taliban militants, declared that Ms. S. was a married woman and that her family had lodged a complaint against Mr. D.K. for abduction. It was only learnt later that she had freely eloped with him.

481. Members of the Taliban movement reportedly captured the couple in Nowshera as the couple was coming back from Karachi. The Taliban members allegedly organized a *Qazi* Court (parallel judicial system) where the couple was found guilty of adultery. According to the information reported, Ms. S. and Mr. D. K. were sentenced to death by stoning.

482. The sentence was carried out on 2 April 2008 in Khwaezai-Baezai, 40 km west of the Mohmand Agency's headquarters, Ghalanai. The dead body of Ms. S. was reportedly abandoned there and local people buried her. The body of Mr. D. K. was allegedly brought to the hospital and handed over to his family.

483. According to sources, this was the first incident of *Rajm* (stoning to death) reported in the Federally Administered Tribal Areas.

#### **Acknowledgment receipt**

484. On **04 July 2008**, the Government of Pakistan acknowledged receipt of the communication.

#### **Allegation letter**

485. On **04 July 2008**, the Special Rapporteur on violence against women, its causes and consequences, sent an allegation letter to the Government concerning the practice of honour killings and *Karo-Kari*, and referring to a number of individual cases brought to her attention. According to the information received.

486. Ms. S., a 30-year-old woman living in Bhai Khot, Manga Mundi District, Province of Lahore, married to Mr. A. and mother of four children, was allegedly suspected by her brother-in-law A. of having developed illicit relations with another man. On 2 April 2008, as her husband was not at home, A. came to Ms. S.'s house and allegedly shot her to death. The victim's father, Mr. I., lodged a complaint against A. at the Manga Mundi Police Station. According to the information received, there had been no arrest.

487. Ms. A., a 32-year-old woman living in Lower Dir, Timergara, District of Swat, North West Frontier Province, was married to M. K., of Malakand since four years. He was working abroad. Mr. S. M., A.'s father-in-law, suspected her of having developed illicit relations with a man. He reportedly gathered some people of the village to kill the couple and told these people that the couple had been caught red-handed. According to the information received, Ms. A. was shot to death on 6 April 2008. It was also reported that, according to the information received, no complaint had been lodged or arrests made in the case.

488. Ms. S., a 21-year-old woman living in Pirabad, in Karachi District, was allegedly killed by her brother W., her mother and her sister. This killing happened after she fell in love with M., an 18-year-old boy who regularly came to her coaching centre. M.'s family refused the marriage with S. because she reportedly was an "outsider". S. was sent to Punjab by her family but she returned after a few days and eloped with M. It was reported that she was caught and grounded by her family. According to the information received, on 8 April 2008, her brother, mother and sister killed her and attempted to make the incident look like a robbery. They told the police that people had shot her and stolen some money. When the Station House Officer R. K. arrived, the family reportedly changed their statement and said S. committed suicide. The police became suspicious because S. could not have shot herself with the gun in her left hand. According to the information received, no arrest was made.

489. Ms. Z., a 45 year old woman, belonging to the Mirani tribe, lived in Mai-Gari Goth, Karachi District, Karachi Province. She married Mr. M., who came from the Sheikh tribe. They lived in Karachi for several years, after which some Mirani tribesmen found them. According to the information received, the parents and their nine children were having tea when the tribesmen forcibly entered their house and had an argument with the couple on the basis of tribal differences. On 7 April 2008, they shot Ms. Z. and her husband. The elder son of the couple lodged a complaint at the Shah Latif police station. No arrest was made.

490. Ms. N., a 35 year old woman, living in Ichhara, Lahore district, Punjab province, was strangled by her husband, Mr. M. B., on suspicion of adultery, on 9 April 2008. The body was sent to the city morgue for autopsy, and the Ichhara police registered a case against Mr. B. However, according to the information received, no arrest was made.

491. Ms. S., a 23 year old woman residing in Nishatabad, Faisalabad district, Punjab province, had frequent quarrels with her father, Mr. W. A., because he suspected her of having an illicit relationship with a man. On 10 April 2008, the father shot his daughter in the head, killing her. An autopsy was performed. The victim's uncle lodged a complaint against Mr. A. However, according to the information received, no arrest was made.

492. Ms. S., a 40 year old woman, living in the village of Chak, in the Multan district, Punjab province, was a widow with seven children. J. and three other people from the same village

alleged that she had an illicit relationship with a man. On 12 April 2008, she was on her way to the fields when J. and his three accomplices shot her and fled from the scene. A case was registered with the police but, according to the information received, no arrest was made.

493. Ms. H., a 19 year old woman, living in Gaggarwali, Satrah village, Sialkot district, Punjab province, eloped with a young man of the same village. Six months later, on 19 April 2008, she returned home. When her three cousins, N., A. and I. saw her, they shot her and she died on the spot. They escaped from the scene. Mr. M. B., the victim's father, registered a murder case against the three culprits, who never came back to the village. According to the information received, no arrests were made.

494. Ms. I. K., a 28 year old woman, residing in Town Committee Mohalla, Shikarpur district, Sindh province, was killed with an axe by her brother Mr. J. S., in his house, on 21 April 2008. It is alleged that, later, he went to Sitam Mohalla and axed to death his relative Mr. M. S., allegedly under the custom of Karo-Kari. The Chak police has registered the case and started the investigation.

495. Ms. R., a 27 year old woman, residing in Soofiabad, Nishtar colony, Lahore district, Punjab province, was married to Mr. A. R. for two years. It is alleged that, on 21 April 2008, R. returned home in the evening and found his wife and his brother I. in an "objectionable position". R. picked up his axe and killed both of them. Then he went to the police and surrendered with the murder weapon. The police registered a case against R.

496. These cases should be placed in the broader context of a widespread practice of honour killings and *Karo-Kari* in Pakistan. Honour killings, carried out for any incident that has dishonoured the family, such as marriage of choice, seeking a divorce or other pretext, is used to discard the woman being accused, and has reportedly resulted in more than 300 victims in 2007. The actual numbers are possibly much higher. The practice of *Karo-Kari*, which literally means "black man and black woman", is a punishment for adultery which consists in killing the woman after having publicly humiliated her, and is becoming increasingly common. Despite legislation passed in 2004 prohibiting these practices, *Karo-Kari* has reportedly made as many victims as honour killings in 2007, and remains a common practice in the feudal and tribal based areas in particular.

#### **Allegation letter**

497. On **7 July 2008**, the Special Rapporteur on violence against women, its causes and consequences, sent an allegation letter to the Government concerning Ms. A., 30 year old woman, residing in Harbanspura, District of Lahore, Punjab province.

498. According to the information received, Ms. A., was married to M. I. Ms. A. had two daughters, S. (3 years old) and S. (8 years old). It was known before the marriage that M. I. was a drug and alcohol addict. He often attacked Ms. A. verbally and physically. Four months ago, tired of this situation, Ms. A. filed a lawsuit for divorce (*khula*). However, Mr. I. reportedly threatened to kill her and their two daughters, and the case was withdrawn.

499. On 8 April 2008, M. I. came back home late at night and allegedly drunk. He tied A. with ropes and electric wires. He cut her all over her body, especially her torso, and crushed her hair with bricks. Ms. A. begged him to leave her, to which he answered that he was teaching her “a lesson for going to court and for having illicit relations with lawyers and policemen”. He reportedly beat her and raped her several times in front of their two daughters. He poured alcohol on her cuts and bruises and left her screaming until she fainted.

500. On 9 April 2008, Mr. I. went to S. A.’s house and said he had killed his wife. The family went to Ms. A.’s house, but Mr. I. attacked them with bricks. With the help of the police, they found Ms. A. almost dead. Mr. I. was detained in custody at the Harbanspura police station. He denied the allegations that he had attacked his wife. A medico-legal certificate was finally issued by the hospital, after several interventions by the family.

### **Acknowledgment receipt**

501. On **4 September 2008**, the Government of Pakistan acknowledged receipt of the communication.

### **Allegation letter**

502. On **9 July 2008**, the Special Rapporteur on violence against women, its causes and consequences, sent an allegation letter to the Government regarding the alleged acid attacks against Ms. Sh. (22 years old) and Ms. So. (18 years old), in Defence Housing Society, District of Lahore, Punjab Province, Pakistan.

503. According to the information received, acid attacks are increasingly common in Pakistan. Thirty-three cases were recorded by a Pakistani organization in 2007, four of which involved victims who were minors. Despite a regulation imposed on the sale of corrosive acids in 2007, the substance is allegedly sold freely and widely, without verifying the identity cards of the buyers, despite the fact that is mandatory. The cause for this practice can be explained by the fact that an acid attack is a form of revenge, whereby the perpetrators, instead of committing murder and possibly being subject to prosecution, achieve a painful and long-lasting result at lower cost. The chief motives for acid attacks are: to avenge/restore honour; refusal of a marriage proposal or spurned sexual advances; and domestic or property disputes or interests. There is reportedly a lack of implementation of regulations and of accountability - which effectively condone and facilitate this crime.

504. It was reported that Ms. Sh. and her sister Ms. So. had been harassed by Mr. B., a neighbour, for the last couple of years. He wished to have sexual relations with them but they repeatedly refused. When Ms. Sh. got married, Mr. B. started harassing Ms. So.

505. On 16 April 2008, Ms. Sh. was visiting her parents in the city and was walking along with her sister when Mr. B. intercepted them on Defence Road. He threw acid in their faces. Both sisters had burn injuries as a result. Mr. B. fled from the scene. Some passers-by rushed the two sisters to a nearby hospital where they were reported as being in stable condition.

506. Mr. M. N., investigation officer, reported that the police had raided Mr. B.'s house in the night of 17 April 2008, but he was not present. The police also investigated the homes of Mr. B.'s friends and raided his workplace, but did not find the culprit. A First Information Report (FIR) was registered. However, according to the information received, no arrest had yet been made.

### **Allegation letter**

507. On **11 July 2008**, the Special Rapporteur on violence against women, its causes and consequences, sent an allegation letter to the Government regarding the situation of three minor girls who have been married according to the custom of Vani weddings: Ms. S., a 7-year-old girl child living in Sukkur, District of Shikarpur, Pakistan; Ms. M., a 5 year old girl living in Makhan Bela, District of Rahim Yar Khan, Province of Punjab, Pakistan; and Ms. S., a 10 year old girl, living in Basti Naiwala, District of Layyah, Province of Punjab, Pakistan.

508. It was reported that Vani weddings ("child bride", also called *Swara*, *Watta Satta* or *Sang Chati*) are a widespread practice in Pakistan, where about a third of all marriages in rural areas are carried out on this basis. The Vani wedding is a practice whereby Pakistani girls are exchanged between families in order to resolve a dispute. It is also reported that there is insufficient implementation by relevant authorities of laws that could provide some protection against such crimes, such as the Child Marriage Restraint Act (1929), which aims to "restrain the solemnization of child marriages". Under this law, a marriage in which one of the parties is a child, either a male under 18 or a female under 16, is prohibited.

509. According to the information received, Ms. S., a 7-year-old girl child, was married to a 45-year-old man to settle a dispute between two families. The dispute reportedly erupted two years ago when S.'s uncle, A. H. C., was accused of having "an illicit relationship" with the wife of Mr. B. C. The dispute was settled by an influential feudal lord, who ordered Mr. H. C. to give Rs 25 000 and his niece S. to Mr. B. C. in compensation.

510. On the day of the wedding, the girl-child locked herself in a room and tried to commit suicide. She was saved by her family and forcefully married to Mr. B. C. According to the information received, the authorities had not taken any action.

511. M., a 5 year old girl, was married on 20 March 2008 to a six-year-old boy. This Vani wedding was ordered by a Panchayat (village council) to settle a dispute between the two families.

512. Five months earlier, P., M.'s brother, had been accused of having "illicit relationships" with his cousin, N. B., the wife of Mr. R. (of T. W.). The Panchayat was convened on 18 March 2008 to settle the dispute. The council was led by M. A., a landlord from Mauza Islampur. Apparently, a few members suggested a fine to punish P., but M. A., A. W., A. D., N. A. and other members favoured the marriage of M., the sister of P., with the 6-year-old M., the son of Mr. R.

513. On 20 March 2008, Mr. H. B. S. performed the Vani wedding of M. with M. The family of P. was also imposed a fine of Rs 30 000 in favour of R.

514. P. and his father, B. A., along with P.'s uncle, A. S., were against this marriage. However, after being detained for three days by the Abbadpur Police, they changed their statement. A. S., the uncle of P registered a case against the Panchayat (village council) for having decided to marry a 5-year-old girl. According to the information received, no action had yet been taken by the local authorities.

515. On 3 April 2008, Ms. S., a 10-year-old-girl, was married to a 13-year-old boy to settle a dispute between two families. The dispute began when the uncle of S., R., eloped with Ms. S. M., a neighbour. S.'s father, Q. B., filed a case against R. for kidnapping at the Sadar Police Station. R.'s elder brother, M. H., was arrested and the father, W. H., asked the Union Council (UC) N. R. N. S. to release his son M. The UC N. R. N.S. suggested organizing a Panchayat to settle the dispute.

516. The Panchayat was constituted of: N.R.N.S.; the former Mandi Town UC, N.N.M.A.S.; Z.H.L.; the spokesman I.A.T.; and M.M.A.T. They heard Ms. S. M., who said that she had married R. of her own will. The council proposed three solutions to W.H. to settle the dispute: he had to return Ms. S. M. to her father, Q. B., within 24 hours, give one-acre-agricultural land to Q., or give the hand of a girl of his family to the family of Q. B.

517. W. H. decided to give his 10-year-old grand-daughter S. to R., the 13-year-old son of Q., as he had no acre of land to give and had already married his only daughter. A. M., S.'s mother, left her house to protest against the Panchayat's decision. A Vani wedding was arranged and the *Nikah* (marriage) solemnized in front of the Panchayat members.

518. As the girl was still a minor, no official *Nikah* document was written. The UC N. R. N. S. argued this was not a *Nikah* but rather a *Dua-i-Khair*, an informal ceremony whereby two children are pledged to one another -though this is not in the form of an official marriage and has no legal value. Allegedly, no action was taken by State authorities to investigate or address this case.

### **Allegation letter**

519. On **29 July 2008**, the Special Rapporteur on violence against women, its causes and consequences, sent an allegation letter to the Government concerning sexual violence against women by private persons in Pakistan. While the Special Rapporteur recognized that State bodies have acted upon complaints brought to their attention in some of the cases mentioned, they were nonetheless brought to the Government's attention as they are symptomatic of a widespread problem of sexual violence perpetrated by private persons against women. According to the information received:

520. On 1 April 2008, Ms. N., a 16 year old girl, residing in Najam colony, Dadu district, Interior Sindh province, was assaulted and gang raped at her home by four men. The four perpetrators were Ms. N.'s neighbours. Ms. N. was admitted at the Civil Hospital until her condition improved, after which she returned home. Ms. N.'s father lodged a complaint against the four culprits at the Dadu Town police station. Only one of the perpetrators was arrested, Mr. G. H. Allegedly, the police failed to arrest the three other culprits because one of them, Mr. M. J., is the brother of a police officer, Mr. G. L.

521. Ms. R., an 8 year old child, resident of Chah Qasaiwala, Karor Lal Essan, Layyah, Punjab province, was sexually assaulted and brutally treated by Mr. M. B. On 13 April 2008, the girl and her parents, Mr. Q. A. and his wife Ms. A.W., were invited to a neighbour's place to attend a ceremony. The girl was playing with other children when Mr. M. B. took her and dispersed the other children. Some people arrived so the culprit ran away, and the victim was brought to the Tehsil Headquarters Hospital. Mr. Q. A., the victim's father, lodged a complaint against Mr. M. B., after obtaining the medico-legal certificate from the hospital. The culprit escaped and, according to the information received, had not yet been arrested.

522. On 15 April 2008, Ms. R., a 10 year old girl living in Layyah village, Punjab province, did not return home after school. Her father, Mr. F., worried, was on his way to the school when he heard noise from his neighbour's house. Mr. M. A., and Mr. F. gathered other neighbours and they entered the house, to find Mr. M. A. along with Mr. K. H. raping the girl-child. The culprits escaped and the girl was brought to the Tehsil Headquarters Hospital, where a medico-legal certificate was issued. The father lodged a complaint against the two men but, according to the information received, no arrest had been made.

523. Ms. N. A., an 18 year old woman, residing in Shah Latif Town, Landhi, Karachi district, Sindh province, was killed during a robbery. Three men came into her house on 17 April 2008, and they tried to rape N. A. But N. A. screamed and the intruders opened fire when N. A. tried to run away. She was killed on the spot. The police officers arrived (Mr. A. K. and C. S. A.) and shot one of the fleeing culprits. The two others escaped. The dead bodies of N. A. and of the culprit were taken to the Jinnah Postgraduate Medical Centre, where it was said that the woman had sustained a bullet wound to her head at close range. The victim's father lodged a complaint (FIR n° 182/08) at the Shah Latif police station.

524. Ms. S., a 28 year old woman, living in Druhar Wahin, Mailsi district, Punjab province, was waiting at a bus stop on 17 April 2008 when Mr. N. A. S., a landlord of the same village, came on a motorcycle and abducted her. She was brought to a place where an accomplice was present, Mr. T. A. S. They raped her the whole night. The day after, they threw her in front of her house, unconscious. The Miranpur police lodged a case and started an investigation. Allegedly, there had been no arrest.

525. Ms. N. M., a 30 year old woman, resident of Basti Naimat Ali, Multan, is the daughter of Mr. R. B. On 19 April 2008, seven people (G., Q., M., M., A., S. and two other people) came to her house, stealing cell-phones, jewellery and a large sum of money. They took her to an unidentified place where she was gang-raped. She ultimately succeeded in fleeing. As the police was allegedly not ready to take legal action on this case, Ms. N. M. filed a petition with the court of Additional District and Session Judge M-M.

### **Allegation letter**

526. On **18 August 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on freedom of religion or belief, sent an allegation letter to the Government concerning Ms. S. Y. and her sister Ms. A. Y. from the Christian minority community in Chak Sarwar Shaheed, district Muzaffargarh.

527. According to the information received, on 26 June 2008, the two girls S.Y., thirteen years old, and A.Y., ten years old, were kidnapped while on their way to their uncle's house in Chowk Munda. Reportedly, their kidnapper was Mr. M.A.B. who handed the girls over to Mr. F. S.G., who then organised a forced conversion to Islam and the marriage of his own son with Ms. S. Y.

528. The police refused the father's request to file a case against the kidnappers. When the two sisters appeared in the Muzaffargarh District and Sessions court, they were given five minutes to testify that their conversion was genuine and Ms. S. Y. indicated that she was 17 years old. However, her parents were not allowed to submit birth certificates and school records to prove the girls' true ages or to provide evidence of the violation of the Child Marriage Restraint Act (1929), which bans child marriage for boys under 18 and girls under 16. On 14 July 2008, the Judge in Muzaffargarh ruled that since the two sisters had converted in a legitimate manner to Islam they could not be "handed over to their Christian parents unless they become Muslim, too". On 6 August 2008, the Lahore High Court Multan Bench ordered a medical examination of Ms. S.Y. to ascertain her age and ruled to keep her and her sister A. in a house for destitute women until the next hearing on 20 August 2008.

529. It was further alleged that the abductors may have been recruiting young girls for the purpose of prostitution and sexual exploitation, and that the marriages were a pretence under which they gained control over the girls.

### **Reply from the Government**

530. By letter dated **15 October 2008**, the Government replied to the letter sent on 18 August 2008 regarding the alleged kidnapping, and forced religious conversion and marriage of Ms. S. Y. and her sister Ms. A. Z.

531. The Government stated that on 7 July 2008, Mr. Y. M., father of Ms. S. Y. and Ms. A. Y., filed a petition before District and Sessions Judge, K.A. concerning the abduction of his daughters by M. A., A. A. and A.

532. It stated that prior to the father's petition, Ms. S. Y. and her sister Ms. A. Y. had filed a petition before District and Sessions Judge, K.A. on 28 June 2008 stating that: they embraced Islam; that their parents were harassing them; and that Ms. S. Y. had changed her name to F., claimed to be 17 years and had happily contracted marriage with A. A.. Ms. A. Y. also expressed preference to stay with her sister. In view of the statements and expressed desire of the two girls, the District and Sessions Judge passed the order that the girls could not be compelled to join their parents.

533. The Government said that after dismissal of their petition by the District and Sessions Judge, the mother of the two girls filed a writ petition before the Lahore High Court, Multan Bench. The Lahore High Court had sent the girls to "Darl Aman" and directed the local police to get them medically examined in order to determine their age.

534. The Government further added that based on an agreement between the two parties, the High Court later decided that custody of Ms. A. Y. could be given to her real mother/petitioner on the condition that the petitioner not interfere in her religious beliefs and practices. Ms. S. Y. was allowed to go with her husband A. A.

### **Allegation letter**

535. On **8 September 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an allegation letter to the Government concerning the killing of five women belonging to the Umrani tribe by burying them while still alive in Baba Kot, a village located 80 kilometers from Usta Mohammad City, Jafferabad district, Balochistan province. According to the information received:

536. On 14 July 2008 Ms. F., 45 years old and wife of U.A. U.; J. B., 38 years old and wife of Q. K.; and three other persons aged between 16 and 18 years old, named F., H. and R., were in the house of Mr. C., at Baba Kot village, with the intention to leave for a civil court at Usta Mohammad, district Jafarabad, so that the three girls could marry the men of their choice. Their decision to be married in court was the result of several days of discussions with the elders of the tribe, who refused them permission to marry.

537. As the news of their plans leaked out, Mr. A. S. U., the brother of a provincial minister Mr. S. U., accompanied by six men, abducted the five women at gun point. In a Land Cruiser jeep, bearing a registration number plate of the Balochistan government, they were taken to another area, Nau Abadi, in the vicinity of Baba Kot. After reaching the deserted area of Nau Abadi, A. S. U. and the six men took the three minors out of the jeep and beat them before allegedly opening fire with their guns, leaving them with very serious injuries. A. S. U. and his accomplices hurled them into a wide ditch and covered them with earth and stones. When the two older women tried to stop the burial of the minors, the attackers pushed them into the ditch as well and buried them all alive.

538. The matter was debated in the Senate, the National Assembly of Pakistan and the Provincial Assembly of Sindh. In the Senate, Senator I.Z. tried to defend the burials stating that the killings were part of tribal traditions and that the incident should not be mentioned in the Upper House. According to information received, no action has been taken to conduct criminal investigations into the matter.

### **Allegation letter**

539. On **8 September 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an allegation letter concerning a continuing pattern of honour killings in Pakistan in which women are killed, usually by a family member, due to suspicions of sexual impropriety or because they have married outside their religion.

540. According to the information received, on 28 January 2008, K. J. beat his wife H., as he allegedly often did, accusing her of a relationship with another man. During the quarrel, K. J. ordered his son, M. U. R. J., to kill H. Then K. J.'s cousin, Mr. H., loaded the rifle and gave it to M. U. R. J., telling him that his mother was "kari" (a black character). M. U. R. J. fired at his mother and killed her. H. Mr. K. J.'s daughter S. rushed into the room and M. U. R. J. shot her as well. K. J. told his neighbours that his wife was "kari," that S. had been supporting her, and that mother and daughter were killed in order to protect the honour and dignity of the K. J. family.

541. On 30 January 2008, K. J. went to Karimdad Lund Police Station, Khaipur Nathan, and reported the matter to the police. M. J., another son of K. J., lodged a First Investigation Report (FIR) against his brother M. U. R. J. for the murder of his mother and sister. The police arrested M. U. R. J. and Mr. H., but not K. J. Mr. H. was subsequently released on bail, while M. U. R. J. remained in detention.

542. In a related development, K. J., as the head of the J. family in the area, called a tribal assembly of elders (*jirga*) to obtain approval for sanctions against his brother-in-law, A. J., whom he accused of having sold his daughter H. in Karachi. The *jirga* decided that A. J. should be killed and all his business confiscated. A. J. escaped from an attack on his house and went into hiding, while K. J. took over his two shops and his house. A. J. has written several letters to the police and various authorities, including the Sindh provincial ministry of human rights, regarding protection for his family members and the “confiscation” of his business, but to date no action has reportedly been taken.

### **Acknowledgment receipt**

543. On 11 **September 2008**, the Government of Pakistan acknowledged receipt of the communication.

### **Allegation letter**

544. On **6 November 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an allegation letter concerning a recent case of honour killing in Chack, Lucky Ghulam Shah, Jahnian, Shikarpur district, Sindh province.

545. According to the information received, Mr. S. D. J., a 62 year-old resident of Goth Allah Wasayo, Chack, Shikarpur district, Sindh province, killed his second wife in August 2008 on the ground that she allegedly had an illicit relationship with a man named S. J., Mr. S. D. J had already killed his first wife for similar reasons in 2001, but was never punished for the act.

546. During the same month of August, as a result of public protests following the killing of the wife of Mr. S. D. J., the police took him into custody, but released him after 15 days without pressing any charges.

547. On 20 October 2008, a local *Jirga* led by the chiefs of the Jatoi tribe, at Lucky Ghulam Shah, Shikarpur district, Sindh province decided that Mr. S. D. J. was a victim of dishonour, and therefore absolved him of the killing of his second wife. The *Jirga* also ordered Mr. Sh. J. to hand over 20 buffaloes, costing more than 100,000 rupees (around USD 1,400) each, as a fine for having an illicit relationship with S. D. J.’s second wife. Mr. Sh. J. was also ordered to compensate S. D. J. by handing over three daughters to him to be at his service. Since Mr. Sh. J.’s daughters were grown up and married, the *Jirga* decided that he should give his 10 year old grand daughter, A., daughter of R. J., as well as the two grand daughters of his brothers, aged 13 and 11 years old.

## **Urgent appeal**

548. On **1 December 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal regarding ongoing threats and harassment against the Peshawar branch of Shirkit Gah and the Strengthening Participatory Organization (SPO). Shirkit Gah is a non-governmental organization (NGO) based in Lahore, which works on women's rights. The SPO is an NGO based in Dera Ismail Khan, which works on development and education.

549. According to information received, on 20 December 2007, an unknown man called the Peshawar office of Shirkit Gah, threatening that the office would face dire consequences if it were not closed. The NGO immediately informed the police. On 9 August 2008, an email, whose identity is known, from the extremist group Tehreeke Taliban, Pakistan, was sent to the Peshawar office of Shirkit Gah. The email ordered Shirkit Gah to close its office in Peshawar criticizing the NGO's work on women's rights issues and raising objections vis-à-vis female employees not wearing their veils and thereby tempting people towards sinful activities. The message claimed that there were photographs and videos to support all of these accusations. The Peshawar office of Shirkit Gah was then threatened that, if it did not take action based on this email, loss of life and of property would ensue. Shirkit Gah was also warned not to share the message with Government officials.

550. On 4 November 2008, an email signed by Talib bai (Talib brother) was sent to Shirkit Gah stating that the NGO mobilized women to participate in processions and warning for the last time that the office would have to be closed. The email threatened that, if the office was not closed, the consequences would be alarming: the women working for Shirkit Gah would be kidnapped and killed.

551. On 8 November 2008, another email, signed by Faqat Talib Apko Sedha Rasta Dhekana y Wala (Talib - lead you to the right path), was sent stating that Shirkit Gah had not acted on previous warnings and had thereby shown no care for the lives of its members. The email explained that there would be no more chances for Shirkit Gah and that the office would be bombed. It blamed the Shirkit Gah for women divorcing and being able to approach the courts, claiming that there would be no pardon for the NGO and that it would have to face the consequences.

552. Meanwhile, in May 2007, the Dera Ismail Khan office of the SPO began to receive threats by phone and mail. On 30 October 2007, the staff hostel of the SPO in Battagram was bombed. Twelve staff members were injured, two of them critically. Office equipment worth approximately 292,000 rupees was destroyed and the damage to the rented building reportedly cost 500,000 rupees. First Information Report (FIR) 422 was lodged at Battagram police station on the same day. On 27 September 2008, the offices of the SPO were looted, resulting in a total loss of approximately 10 million rupees. FIR no. 549 was lodged at the Cantt police station on the same day.

### **Acknowledgment receipt**

553. On **1 December 2008**, the Government of Pakistan acknowledged receipt of the communication.

### **Observations**

554. The Special Rapporteur wishes to thank the Government of Pakistan for its response to two communications sent on 12 March 2008 and 18 August 2008 respectively. However, she regrets that the Government did not reply to the remainder of the communications sent during the period under review. The Special Rapporteur reiterates her interest in receiving responses from the Government in regard to these allegations and would be particularly interested to know whether these cases have resulted in any prosecutions of alleged perpetrators and whether the victims have been granted reparation.

## **Papua New Guinea**

### **Allegation letter**

555. On **11 February 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an allegation letter to the Government concerning recent reports of sorcery-related killings of women in the highlands provinces of Papua New Guinea. According to the information received:

556. On 6 January 2009 a woman was stripped naked, gagged, tightly strapped and burned alive by a group of men at the Kerebug Dump in Mount Hagen. As of 27 January 2009, the identity of the victim was still unknown, and the Provincial police authorities were still investigating. The body was reportedly too badly burnt for identification purposes.

557. In addition, at least four other similar cases in the highlands area (two resulting in deaths of women, one in which a female victim was tortured but survived, and the killing and burning of a father and son in Ban village on 8 February 2009) were also reported to the Special Rapporteurs after the killing in Mount Hagen on 6 January 2009. Provincial police commanders in two highlands provinces, Eastern Highlands and Chimbu, reportedly told journalists that there were more than 50 sorcery-related killings in their provinces in 2008. Other independent sources have estimated that there have been up to 500 attacks against women accused of practicing witchcraft that have resulted in torture and murder.

558. The police are reportedly often unable to enforce the law and stop mob killings. In the case of the killing and burning of a father and son suspected of sorcery in Ban village on 8 February 2009, the police were able to visit the crime scene and confirm their deaths, but heavily armed locals prevented them from removing the bodies to hospital for autopsies.

## Observations

559. The Special Rapporteur regrets that the Government of Papua New Guinea did not reply to this communication, and reiterates her interest in receiving responses in regard to the allegations submitted.

### People's Republic of China

#### Response from the Government to a communication sent in 2007

560. On **5 November 2007**, the Special Rapporteur sent an urgent appeal concerning Ms. M. H., a reproductive and housing rights activist. Ms. M. H., had already been the subject of previously transmitted communications.

561. According to the information received, on 13 September 2007 prison authorities ordered a fellow inmate to beat Ms. M. H., as punishment for revealing that she had been held in solitary confinement for a period of 70 days, in violation of the Chinese Prison Law. As a result of the beatings, she was badly bruised. On 24 September 2007, prison authorities allegedly sent Ms. M. H. to the Nahui Prison Hospital, where her clothes were removed and she was tied to a bed where she was force-fed by other inmates. Also, Ms. M. H.'s husband, Mr. W. X., was allegedly prevented from visiting her at the Shanghai Women's Prison until 26 October 2007.

562. The full details of the allegations submitted were already reflected in the Special Rapporteur's previous report on communications sent and received.<sup>6</sup>

563. By a letter dated **15 January 2008**, the Government of China responded to the communication sent 5 November 2007. It stated that after being taken into custody, Ms. M. H. was placed in a cell with two other offenders and was not placed in solitary confinement. The Government also asserted that Ms. M. H. has never been beaten by any other female prisoner, nor has she been in any fights with other women inmates or suffered any "cuts and bruises".

564. The Government of China stated that the results of the physical examinations carried out upon Ms. M. H.'s admission to the detention facility demonstrated that she suffered from high blood pressure, but other indications were normal. After undergoing treatment for her condition at the hospital, her blood pressure returned to normal. Moreover, it was stated that her most recent full medical examination was carried out by the hospital in early December 2007. While undergoing treatment, Ms. M. H. was never subjected to any forced medication and that allegations in this respect were not supported by the facts.

Finally, the Government noted that Ms. M. H. enjoyed her rights on the same footing as other prisoners. It added that, since her admission to the detention facility, she had received monthly visits from family members, including her husband and daughter. The Government also stated that Ms. M. H. had submitted no written complaints, nor had she sought meetings with her lawyers.

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<sup>6</sup> A/HRC/7/6/Add.1.

### **Urgent appeal**

565. On **7 May 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Mandate of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government regarding Ms. J. K., a well-known Tibetan writer and musician. Ms. J. K., aged 42, is an internet writer and has published articles on women's issues in Tibet.

566. According to information received, on 1 April 2008, Ms. J. K. was taken away by plainclothed state security officers from her office at the Qinghai Provincial Television Station in Xining City. Ms. J. K. was initially held at the Xining City Public Security Office, but on 4 or 5 April 2008 she was taken to an undisclosed location. No formal charges against her have been made public.

567. Ms. J. K. kept in contact with her family via mobile phone until 7 April 2008. Since then her phone has been turned off. During two searches of her home, police officers are reported to have confiscated her personal computer and other personal items.

568. Concerns were expressed that the detention of Ms. J. K. might have been solely connected to the exercise of her right to freedom of opinion and expression. In view of the reported incommunicado detention of Ms. J. K. at an unknown place of detention, further concerns were expressed that Ms. J. K. might be at risk of ill-treatment.

### **Reply from the Government**

569. By letter dated 7 August 2008, the Government replied to the communication sent on 7 May 2008. However, at the time this report was completed, the translation of this reply by the Government of the People's Republic of China had not yet been finalised.

### **Allegation letter**

570. On **23 May 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the right to freedom of opinion and expression sent an allegation letter to the Government concerning the case of Ms. Y. W., wife of Mr. C. G., a well-known human rights lawyer who had denounced alleged violations linked to China's one-child policy, including forced sterilizations and abortions.

571. According to information received, on 24 August 2006, after allegedly taking legal action against Linyi city authorities for their practice of forced abortions, Mr. C. G. was sentenced to four years and three months imprisonment for "organising a mob to disrupt traffic." Ms. Y. W. had been working together with her husband in gathering evidence in the case against the Linyi city authorities and was publicly opposing his imprisonment.

572. Mr. C. G. had already been the subject of six previous communications to the Government of China sent by several mandate-holders on: 27 June 2006; 14 July 2006; 7 April 2006; 31 October 2005; 19 September 2005; and on 21 December 2006.

573. According to the new information received, on 14 May 2008, the Beijing Municipal Chaoyang District People's Court upheld an administrative travel ban against Ms. Y. W. issued in August 2007 by the Beijing General Station of Exit and Entry Frontier Inspection. The ruling followed a lawsuit filed by Ms. Y. W. to challenge the administrative decision. The court closed the hearing on grounds that the case involved State secrets. Ms. Y. W. was reportedly unable to attend the hearing because she was confined to her home in the city of Linyi by local authorities.

574. The administrative decision barred Ms. Y. W. from travelling to the Philippines to receive the 2007 Ramon Magsayay Award for Emergent Leadership on behalf of her husband in August 2007. On 24 August 2007, she was intercepted by police at the Beijing International Airport, her passport revoked, and she was reportedly beaten and forced to return to her home.

575. Ms. Y. W. has reportedly been subject to repeated acts of harassment by the authorities following the arrest of her husband and was kept under residential surveillance by the police. She was reportedly brought in by police for questioning several times. According to the information received, she had not been allowed to visit her husband for eight months.

576. Concern was expressed that the reported harassment against Ms. Y. W. and the decision of the Beijing Municipal Chaoyang District People's Court to uphold the travel ban may be aimed at sanctioning Ms. Y. W. and Mr. C. G. for their non-violent activities in defence of human rights.

### **Reply from the Government**

577. By letter dated 7 July 2008, the Government replied to the communication sent on 23 May 2008. However, at the time this report was completed, the translation of this reply by the Government of the People's Republic of China had not yet been finalised.

### **Urgent appeal**

578. On **17 July 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights defenders sent an urgent appeal to the Government concerning Ms. M. H., a reproductive and housing rights activist who has petitioned against family planning policies and forced evictions since 1989. She had been the subject of six previous communications from various mandate-holders, most recently on 5 November 2007.

579. The Special Rapporteur acknowledged receipt of the response from the Government dated 15 January 2008, concerning the communication sent on 5 November 2007.

580. According to new information received, on 3 June 2008 Ms. M. H. was taken to a prison hospital against her will. She was stripped naked by twelve female prisoners chosen by prison authorities, tied to a bed and left there until she was returned to Shanghai Women's Prison on 16 June 2008. She was injected with twelve kinds of unknown medication which reportedly gave

her headaches and burning pains. Blood was extracted from her against her will. In her struggle to stop this from happening she lost a large amount of blood. Despite temperatures being very high she was covered with a blanket and her mouth and nose were at times covered with clothes to stop her from breathing. She was beaten and had her breast, mouth and genitals pinched by prisoners and guards. During her time in the prison hospital she was not allowed to wash. After she returned to Shanghai Women's Prison, a shutter was put up on the only window in her cell to block out light.

581. Concerns were expressed that the arrest and ill-treatment of Ms. M. H. in detention may be directly related to her peaceful work in the defence of human rights in China, and may form part of an ongoing campaign against human rights defenders in the country. Further concerns were expressed for the physical and psychological integrity of Ms. M. H. while she remains in detention.

### **Reply from the Government**

582. By letter dated 02 September 2008, the Government replied to the communication sent on 17 July 2008. However, at the time this report was completed, the translation of this reply by the Government of the People's Republic of China had not yet been finalised.

### **Urgent appeal**

583. On **12 August 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Mandate of the Working Group on Arbitrary Detention sent an urgent appeal to the Government regarding the case of Ms. Z. J., a Beijing-based human rights activist and wife of Mr H. J., an HIV/AIDS activist, co-founder and former director of the Beijing Aizhixing Institute for Health Education. Mr H. J. had been the subject of communications sent by several mandate holders following his detention on 27 December 2007, his sentencing on 3 April 2008 to three years and six months' imprisonment and one year of deprivation of political rights for "inciting subversion of state power", and the denial of legal representation, preventing him from discussing the details of a possible appeal.

584. The Special Rapporteur acknowledged receipt of the responses of the Government to these communications.

585. According to the new information received, Ms. Z. J. had reportedly not been seen since 7 August 2008, on the eve of the opening ceremony of the Olympic Games, and all attempts to contact her had failed. It was believed that she had been forcibly taken into custody at an unknown location outside the capital by police officers to prevent her from raising concern on the case of her husband, Mr H. J., during the Games.

586. For two years, Ms. Z. J. had been under intermittent residential surveillance by police from the National Security Unit under the Beijing Public Security Bureau. Following the arrest and detention of her husband in December 2007, this residential surveillance was tightened.

587. Concern was expressed that the reported detention of Ms. Z. J. at an unknown location may be linked to her non-violent work in campaigning for the release of her husband. Further concern was expressed for her physical and psychological integrity.

## **Reply from the Government**

588. By letter dated 20 September 2008, the Government replied to the communication sent on 12 August 2008. However, at the time this report was completed, the translation of this reply by the Government of the People's Republic of China had not yet been finalised.

## **Observations**

589. The Special Rapporteur would like to thank the Government of China for its reply to all the communications sent during the period under review, as well as for its response to the communication sent on 05 November 2007.

## **Philippines**

### **Urgent appeal**

590. On **21 February 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture, and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government regarding Ms. S. C., Ms. K. E. and Mr. M. M.

591. Ms. S. C. is a community organiser with the youth group Anakbayan and works in a voluntary capacity for Alyansa ng Magbubukid sa Bulacan (Alliance of Peasants in Bulacan - AMB), an organization dedicated to the promotion and protection of peasant rights based in Central Luzon. Ms. K. E. is a member of the League of Filipino Students (LFS) and Mr. M. M. was a local peasant and a member of the Alyansa ng Magbubukid sa Bulacan. All three individuals were the subject of a previous urgent appeal sent on 5 October 2007.

592. According to the allegations received, at the time of the appeal, Ms. S. C. and Ms. K. E. were in detention at the Camp Tecson barracks in San Miguel, Bulacan. Ms. S.C., in addition to being forced to do the laundry for the camp every day, was sexually assaulted by soldiers named M., B., and D. D., a.k.a. Master Sgt. D. C., who is a suspect in the killing of human rights defender and community leader, E. G., in April 2003, and is believed to be identifiable by the tattoo "24th IB" on his shoulder.

593. Previously Mr. M. M., Ms. S. C. and Ms. K. E. had been held at the 24th Infantry Battalion (IB) camp in Limay, Bataan, where Ms. S. C. was tied to a bench while her feet were raised and soldiers poured water over her and electrocuted her. When Ms. S. C. admitted that Ms. K. E. had helped her to write a letter to her mother-in-law, the latter was taken outside by soldiers and witnesses report hearing her cries. The following day, the witnesses heard the soldiers recount that they had raped her with wooden sticks.

594. Ms. S. C. and Ms. K. E. were not seen again after June 2007. On 21 November 2007, Ms. S. C.'s mother-in-law testified to receiving death threats from soldiers visiting her home and interrogating her.

595. Mr. M. M. was killed, reportedly following the order issued by Retired Major General J. that Mr. M. M. be burned to death.

596. In view of the above allegations, grave concern is expressed for the physical and psychological integrity of Ms. S. C. and Ms. K. E. Furthermore, concern is expressed that the kidnapping and detention of Ms. S. C., Ms. K. E., and Mr. M. M. may have been directly related to their activities in defence of human rights.

### **Acknowledgement receipt**

597. By letter dated 26 February 2008, the Government acknowledged receipt of the urgent appeal sent 21 February 2008, and stated that the communication had been forwarded to the appropriate authorities in Manila. The letter further stated that information regarding to the case would be made available to the Special Rapporteur once received by the Permanent Mission.

### **Observations**

598. The Special Rapporteur would like to thank the Government of the Philippines for its initial reply to the communication sent in 2008 and reiterates her interest in receiving a comprehensive response from the Government in regard to this allegation.

## **Democratic Republic of the Congo**

### **Appel urgent**

599. Le **15 avril 2008**, la Rapporteuse spéciale sur la violence contre les femmes et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, envoyèrent un appel urgent concernant la situation de Mme J. L., coordinatrice de l'association Solidarité Féminine pour la Paix et le Développement Intégral (SOFEPADI) et Mme T. K., membre de la SOFEPADI et proche collaboratrice de Mme J. L.

600. Selon les informations reçues, dans la nuit du 5 au 6 avril 2008, le domicile de Mme J. L., situé à Bunia, aurait fait l'objet d'une attaque par des miliciens armés qui, de toute évidence, recherchaient Mme J. L. Vers minuit, ces derniers se seraient introduits dans la cour en poussant la porte de la clôture, puis auraient tenté de forcer la porte de la maison. Ils auraient menacé « d'exterminer Mme J. L. et sa famille » et de tuer les personnes qu'ils supposaient à l'intérieur de la maison, si la porte ne leur était pas ouverte. Seul, un jeune garçon, chargé de garder la maison en l'absence de Mme J. L. et de sa famille, aurait été présent. En entendant les menaces proférées par les miliciens, il se serait caché. Les miliciens seraient restés de minuit à 5 heures du matin autour de la maison. Certains d'entre eux auraient menacé de tirer sur la maison, mais d'autres les auraient persuadés de renoncer, de crainte que les coups de feu n'attirent l'attention du voisinage et notamment des policiers, la maison étant située non loin d'un poste de police. D'autres auraient été résolus à ne pas gaspiller les munitions « destinées à la mort de quelqu'un », selon leurs propres propos.

601. Le 31 mars 2008, alors que Mme J. L. se trouvait en Europe afin de participer à une mission de plaidoyer sur la lutte contre l'impunité et les violences sexuelles en République Démocratique du Congo, Mme T. K. aurait reçu la visite, à son domicile, de deux individus non-identifiés qui lui auraient demandé l'adresse de Mme J. L., alléguant qu'ils étaient des visiteurs en provenance de Bunia. Vers 22h, les deux individus seraient revenus frapper à la porte du domicile de Mme T. K. Celle-ci leur ayant refusé d'entrer, ils l'auraient menacée en

faisant référence au fait qu'en octobre 2002 Mme J. L. avait dû fuir Bunia, son domicile d'origine, en raison des actes de harcèlement commis à son encontre par les milices, dont elle dénonçait les agissements, et en particulier les violences faites aux femmes. De manière générale, les animatrices de la SOFEPADI feraient l'objet de filatures par des inconnus.

602. Par un courrier en date du 1er avril 2008, l'association SOFEPADI aurait alerté le maire afin de lui demander que des mesures de sécurité soient prises afin de protéger Mme J. L. ainsi que les autres membres de l'association. Le 3 avril 2008, l'Agence Nationale de Renseignements (l'ANR) aurait entendu Mme T. K. sur procès verbal. Cependant, les agents de l'ANR demanderaient des coupons de recharge téléphonique pour entamer leurs investigations. Hormis le chef d'avenue, aucune autorité ne se serait présentée pour s'informer des menaces pesant sur les membres de la SOFEPADI.

### **Observations**

603. La Rapporteuse Speciale regrette, au moment de la finalisation du présent rapport, que le gouvernement de la République Démocratique du Congo n'ait pas répondu à cet appel urgent et exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans celle-ci.

604. The Special Rapporteur regrets that the Government of Congo did not reply to this communication, and reiterates her interest in receiving a response in regard to the allegation submitted.

### **Saudi Arabia**

#### **Allegation letter**

605. **On 07 April 2008**, the Special Rapporteur on violence against women, its causes and consequences, sent an allegation letter to the Government concerning the case of F. A.-T. and M., which had been previously discussed with representatives of the Government in the context of the Special Rapporteur's visit to Saudi Arabia earlier that year.

606. According to available information, F. A.-T., a Saudi national, was allegedly forcibly divorced from her husband M., also a Saudi national, by a court in 2005 at the request of her half brothers, because of the "husband's low tribal background". A judgment was allegedly pronounced even though the couple had been married with the consent of F. A.-T's father for a number of years and had two children. While F. A.-T was living in an official institution in Dammam with the couple's son, M. was residing in Riyadh with their daughter. On 8 December 2006, the Special Rapporteur had previously sent a communication to the Government inquiring about the case.<sup>7</sup>

607. During her visit to Saudi Arabia in February 2008, representatives of the Government informed the Special Rapporteur that procedures were in progress to reunite the family and assured her that the matter would be resolved soon.

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<sup>7</sup> See reference A/HRC/7/6 Add.1, para. 446-448.

608. However, according to information received subsequently, the situation appeared to remain unchanged and Ms. F. A.-T. had undertaken a hunger strike on 24 May 2008.

### **Reply from the Government**

609. On **22 August 2008**, the Government replied to the letter sent on 7 April 2008. The Government informed that F. A.-T was not on hunger strike and living a normal life in a shelter where she was able to communicate with anyone wishing to contact her. It further stated that her case was being considered by a competent court.

### **Urgent appeal**

610. On **19 March 2009** the Special Rapporteur on violence against women, its causes and consequences, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government of Saudi Arabia concerning: Ms. K.M.S. aged 75 and a Syrian national; Mr. F. aged 24; and Mr. H., the latter two citizens of Saudi Arabia.

611. According to the allegations received, on 21 April 2008, the Mutawa'een arrested the three above mentioned individuals because Ms. K.M.S. was alone in the company of a member of the opposite sex who was not a close relative. Subsequently, on 3 March 2009, Ms. K.M.S. and Mr. F were sentenced to 40 lashes and a four month term by a court in al-Shamli, while Mr. H. was sentenced to 60 lashes and a six month prison term.

612. With regard to the sentences to corporal punishment, concern was expressed for the physical integrity of the three persons, with particular attention to the advanced age of Ms. K.M.S. and the grave consequences that such a punishment could have on her health and well being.

### **Observations**

613. The Special Rapporteur would like to thank the Government of Saudi Arabia for its reply to the communication sent on 7 April 2008. However, the Special Rapporteur expresses her deep concern and regret that to date this case has not been resolved and reiterates her interest in receiving additional information on what measures have been taken towards the unification of the family concerned and the Court decision in this regard.

614. The Special Rapporteur conducted an official country visit to Saudi Arabia in February 2008 and met with the couple separately.

615. The Special Rapporteur regrets that the Government of Saudi Arabia did not reply to the communication sent on 19 March 2009, and reiterates her interest in receiving a response in regard to the allegation submitted.

## **Somalia**

### **Allegation letter**

616. On **06 November 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Independent Expert appointed by the Secretary-General on the situation of human rights in Somalia, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an allegation letter to the Government concerning Ms. A. I. D., aged 13.

617. According to the information received, Ms. A. I. D. was found guilty of adultery, an act considered against Islamic law, by the Kismayo Sharia court, and sentenced to death by stoning. On 27 October 2008, on one of the main squares of Kismayo, she had her hands and feet tied together, was then buried up to her neck and stoned to death by around 50 men, while thousands of persons watched. She was pulled out three times to see whether she was dead. When a relative and others ran towards her, guards opened fire, killing a child. Since then, Islamist leaders have promised to punish the guard who shot the child.

618. Allegedly, the accusation of adultery against Ms. A. I. D. was fabricated because she had attempted to report to the al-Shabab militia controlling Kismayo that she had been raped by three men. None of the men she accused of rape were arrested.

### **Observations**

619. The Special Rapporteur regrets that the Government of Somalia did not reply to this communication. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.

## **Sudan**

### **Allegation letter**

620. On **05 August 2008**, the Special Rapporteur on violence against women, its causes and consequences, sent an allegation letter to the Government concerning Ms. N. W. K., victim of rape.

621. According to information received, on 20 June 2008, Ms. N. W. K., a 20-year old female tea trader of the Nuer ethnic group, was raped by two soldiers from the Sudan People's Liberation Army in Nassir County, Upper Nile State. At the end of June 2008, the Nassir Customary Court sentenced one of the rapists to one year of imprisonment and a fine of seven cows, while the other perpetrator received a sentence of nine months of imprisonment and a fine of seven cows. The victim had filed an appeal against the judgment with the First County Judge in Malakal.

622. Concern was expressed that the Nassir Customary Court exceeded its jurisdiction by adjudicating the case. The Supreme Court of South Sudan had not issued a warrant of

establishment that would give the Customary Court jurisdiction over serious crimes such as rape. Moreover, the lenient sentences fail to take into account the severe physical and psychological injuries caused by rape and fall short of the maximum penalty for rape foreseen by Article 317 of the New Sudan Penal Code (14 years of imprisonment and a fine).

### **Allegation letter**

623. On **22 August 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on the human rights of migrants sent an allegation letter to the Government concerning the arrest and detention of a group of Ugandan women.

624. According to the information received, on 23 June 2008, a Criminal Investigation Department Officer (CID) accompanied by two Southern Sudan Police Service (SSPS) officers arrested five Ugandan female traders at a Ugandan Bar in Malakal (Upper Nile State) and took them for interrogation at the Malakal Police Station. Six other Ugandan women were arrested in another bar in Malakal. At the time of the arrest, none of the eleven women were informed about the reasons for their arrest.

625. The eleven Ugandan women were detained at the Malakal police station and only released later the same day. While in detention, the women were severely beaten by CID and SSPS officers and suffered visible physical injuries, which were seen by UNMIS Human Rights Officers. Police officers accused the women of engaging in prostitution, while at the same time allegedly trying to force them to have sex with the officers. Before their release, the women were threatened and warned not to report this incident to anybody.

626. The Director of the CID in Malakal told UNMIS Human Rights officers that the eleven women had been arrested, because they were reportedly engaging in immoral activities. He denied allegations that police officers had physically abused the women in the process of interrogation or tried to force them to have sex with them.

627. The allegation letter also refers to the alleged gang rape of four Ugandan nationals, namely, Ms. A. N. (40 years old), Ms. I. U. (21 years old), Ms. A. B. (19 years old), Ms. S. L. (40 years old), by Southern Sudan Police Service (SSPS) officers in Bor, Jonglei State.

### **Allegation letter**

628. On **7 October 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on adequate housing (as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context), the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an allegation letter regarding attacks against the civilian population of the villages of Logurony and Ioli in Eastern Equatoria State by the Sudan People's Liberation Army (SPLA), which resulted in the killing and beating of civilians, the rape of women and the destruction of dwellings and livelihoods on 4 June 2008 and in the following days.

629. According to the information received, on 4 June 2008, SPLA forces surrounded Logurony. While it was still completely dark, they started shooting, at first aiming in the air. The villagers, who were on high alert due to an expected attack from Ioli, returned fire. Only when it became light, did they realize that they had killed SPLA soldiers. Fearing retaliation by the SPLA, they fled into the bush. SPLA soldiers shot at Logurony villagers, reportedly killing four. They also started burning down the village, killing three elderly people.

630. Also on 4 June 2008, SPLA forces (reportedly counting 300 men) surrounded Ioli, took the inhabitants outside the village and then started burning down the village, killing one woman, A. E. The SPLA also arrested five men and tied their hands behind their backs. The SPLA Operational Commander came to Ioli and allegedly ordered the soldiers to execute those arrested. Three men were executed on the spot in front of the remaining village community, while one was injured but managed to escape. The fifth man was beaten by the soldiers and chased away. The population started running towards the bush. The SPLA opened fire on them, injuring another man. On 9 June 2008, the bodies of two children, aged 5 and 6 (R. J. and O. L.), were found in the bush surrounding the village. Ioli village was burned to the ground.

631. Soldiers gathered the remaining Ioli and Logurony villagers, approximately one thousand persons, and brought them to the SPLA barracks in Ramshel. There they spent the remainder of the day under the trees. Women were reportedly beaten with sticks. Many women were raped by SPLA soldiers at the SPLA barracks in Ramshel on 4 June, some of them in front of their children. The raped women include M. E. and A. T. as well as K. O. The mortal remains of K. O., who suffered from epilepsy, were later found in the bush. In the evening of 4 June 2008, the villagers held at the SPLA barracks were released, apparently on orders of the Torit County Commissioner.

632. Twelve male villagers, five from Logurony and seven from Ioli, however remained in SPLA detention until 7 June 2008 (one of them seven days longer). All were beaten on their head and stomach with gun barrels and other wooden and iron objects. Two Logurony detainees sustained severe head injuries, while another had whipping marks on his buttocks. These men did not report the ill-treatment to the police as they feared re-arrest by the SPLA.

633. On 10 June 2008, a young man from Hiyala was arrested on suspicion of involvement in the shooting that led to the death of SPLA soldiers. He was taken to the SPLA barracks and severely beaten. He was released following a meeting between the Hiyala Head Chief and the SPLA, and had to be taken to Hiyala Hospital for medical treatment.

634. SPLA retaliation against the civilian population of Logurony, Ioli and Hiyala continued in the days following 4 June 2008. On 6 June 2008, SPLA men shot at Hiyala villagers who were working in the field. A man and a woman were killed (O. S. and O. S.), another woman injured. On 7 June 2008, O. A., a man from Ioli who had returned to the village, was apprehended by SPLA soldiers, tied up and executed on the spot. On 10 June 2008, O. O. E. and O. O., two Logurony villagers, were found shot dead near the Hiyala village square.

635. Government representatives from Eastern Equatoria State visited the area and submitted reports to both the President and Vice-President of the Government of Southern Sudan. In the immediate aftermath of the incidents, the Eastern Equatoria State authorities and the Ministry of

SPLA Affairs announced that a high-level committee would be investigating the incidents, but four months later the members of the inquiry had not been appointed, nor any other steps taken. The Eastern Equatoria State Government and the Torit County Commissioner took part in peace and reconciliation efforts between the two villages.

### **Urgent appeal**

636. On **17 February 2009**, the Special Rapporteur on violence against women, its causes and consequences, jointly with Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent an urgent appeal to the Government regarding its decision on 5 February 2009, to remove article 13, which would ban female genital mutilation as part of customs and traditions harmful to the health of the child, from the proposed draft of the Children's Act.

637. According to the allegations received, the Government took its decision pursuant to an advisory opinion of the Islamic Fiqh Academy, which distinguished between infibulation ("Pharaonic" circumcision), considered harmful by them, and the circumcision of 'sunna', a less intrusive procedure. The Government reportedly decided that the law should allow for the 'sunna' practice, and prohibit infibulation with its introduction in the Penal Code, which was also under preparation/revision.

638. While the Rapporteurs welcomed in principle, the draft Children's Act, which represents an important step forward in the protection of children's rights, they expressed their deep concern following the decision of the Council of Ministers not to proceed with the complete criminalization of the practice of female genital mutilation - cutting (FGM/C), and for making a distinction between several forms of FGM. The Rapporteurs noted that in their view, this decision constituted a setback following the recent efforts of the Government of Sudan to tackle this harmful practice through a series of measures, including the adoption of a national strategy to abandon the practice of FGM/C.

639. The Rapporteurs expressed their concern that instead of contributing to a gradual ending of these harmful practices, the legalization of 'sunna' practice could open the door for maintaining other forms of FGM/C and also render more difficult legal efforts to eradicate FGM/C altogether. Information was received that internally displaced persons from South Sudan to North Sudan have, for instance, started practicing genital mutilation, and that the custom has gradually spread to various ethnic groups in other parts of the country.

640. Women and girls can suffer long term health consequences following FGM/C depending on the type and severity of the procedure performed. Recognized gynaecologist and obstetricians indicated that the 'sunna' practice constitutes amputation of parts of the child's genital organs which would result in the same health hazards as other types of circumcision. Short-term difficulties include severe pain, shock, haemorrhage, urine retention, ulceration of the genital region, and injury to adjacent tissue. Haemorrhage and infection can cause death. Long-term consequences include: psychological trauma; a feeling of incompleteness, anxiety and depression; difficulties during childbirth; cysts and abscesses; keloid scar formation; damage to the urethra resulting in urinary incontinence; painful sexual intercourse; and sexual dysfunction.

641. In addition, despite the commonness of FGM/C, health providers (traditional and modern) and the women themselves are often poorly equipped to handle the resulting complications, especially those associated with pregnancy, and the physical and psychological sexual dysfunctions.

642. The Rapporteurs urged the Government to reconsider its decision to remove article 13 of its draft Children's Act, and to criminalize all forms of female genital mutilation in both the Children's Act and its Criminal Code.

### **Urgent appeal**

643. On 24 March 2009, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, the Special Rapporteur on adequate housing, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right to education, the Special Rapporteur on the right to food, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, sent an urgent appeal to the Government of Sudan regarding the revocation of the licenses of 16 non-governmental organisations working in the region of Darfur, in Northern Sudan and in the Transitional Areas.

644. Concern was expressed that such a decision would have devastating consequences on the human rights of 4.7 million people affected by the conflict, particularly in the sectors of food, health, water, sanitation, adequate housing and education. Of this population, 2.7 million concerned internally displaced persons living in camps across the country. According to the information received:

645. On 5 March 2009, following the issuance of an arrest warrant against President Omar Bashir by the International Criminal Court, it was announced that the operations related to humanitarian assistance and human rights work of these organisations were suspended. These organisations included 13 international non-governmental organisations, namely Action contre la Faim, Solidarités, Save the Children UK and Save the Children US, Médecins sans Frontières Holland and Médecins sans Frontières France, Care International, Oxfam GB, Mercy Corps, International Rescue Committee (IRC), Norwegian Refugee Council, Cooperative Housing Foundation and PADCO. In addition, the activities of three national organisations were also terminated, namely the Sudan Social Development Organization (SUDO), the Amel Centre for Treatment and Rehabilitation of Victims of Violence, and the Khartoum Centre for Human Rights.

646. These 16 organisations employed nearly 6,500 national and international personnel. Eviction orders had reportedly been appealed by relief and humanitarian NGOs according to Sudanese law, while the close down of local NGOs could not be appealed according to the Humanitarian Act of 2006.

647. Incidents of threats against NGO personnel were reported, as well as systematic confiscation and seizure of property, including passports computers, cars and confidential items,

allegedly on the basis of an agreement signed by NGO personnel with the Humanitarian Aid Commission (HAC) stipulating that they had to hand their assets over to the State upon their departure.

648. Concern was also expressed that the impact would not only be limited to Darfur, but the Three Transitional Areas and Eastern Sudan as well. According to estimates, 1.5 million beneficiaries no longer had access to health and nutritional services. Host and IDP populations were particularly affected. Water supply, sanitation and hygiene services provided by these NGOs to 1.16 million people were interrupted (Blue Nile - 102,000; Eastern States - 50,000; and Darfur - 1,007,000). Some 1.1 million people had stopped receiving general food distribution and the treatment of some 4,000 children for severe and moderate malnutrition over the next three months could be interrupted. In the Non-Food Item (NFI) and Emergency Shelter (ES) sector, 670,000 individuals were estimated to be affected. Distributions of Non-Food Relief Items (which include cooking equipment and other basic household goods) and emergency shelter had ceased in 19 camps and locations in Darfur.

649. The longer term humanitarian consequences, such as depletion and shortages of food stocks and other assets and the upcoming rainy season, will reportedly have a serious impact on the ability of the communities concerned to have access to sufficient and adequate food.

650. On 8 March 2009 the decision to terminate the activities of the above-mentioned organisations had started to show its effects. In some IDP camps in the Zalingei area, for example, the fuel for operation of the water pumps had started to run low without an alternative option in place for its re-supply. Garbage had also started piling up inside these camps. Absence of water and a waste disposal system would have serious consequences on people's health and nutrition.

651. Finally, disturbing reports of censorship, temporary newspaper suspensions, threats and arbitrary arrest and detention to prevent human rights defenders, journalists and members of opposition parties from freely expressing their opinions, were reported. Privately-owned print media reportedly continue to be subjected to daily censorship by officials of the National Intelligence and Security Service (NISS) who may allegedly order the removal of any article from the following day's paper. In response to the censorship there had been a number of protests by journalists.

## **Observations**

652. The Special Rapporteur regrets that the Government of Sudan did not reply to any of the communications sent during the period under review. She considers response to her communications as an important part of the cooperation of Governments with her mandate, and urges the Government of Sudan to respond to the concerns raised.

653. The Special Rapporteur conducted a visit to the Darfur region of the Sudan in September 2004.

## Tunisia

### Lettre d'allégation

654. Le **27 août 2008**, la Rapporteuse spéciale sur la violence contre les femmes, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, le Rapporteur spécial sur l'indépendance des juges et des avocats, le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, et le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants, envoyèrent un lettre d'allégation concernant la situation de : Mme Z. D., membre de l'Association de lutte contre la torture en Tunisie, de la section de Kairouan de la ligue tunisienne des droits de l'Homme et du Forum démocratique pour le travail et les libertés; M. A. A., enseignant; M. M. A., instituteur; M. F. A. M., technicien; M. A. D., enseignant; M. K. B. O., enseignant; et M. N. C., ouvrier.

655. Selon les informations reçues, le 27 juillet 2008, Mme Z. D., M. M. A. A., M. M. A., F. A. M., A. D., K. B. O. et N. C. auraient participé à Redeyef à une manifestation présentée comme pacifique dont le but était de dénoncer des actes de répression, notamment des arrestations, de la part des forces de l'ordre à l'encontre des habitants du bassin minier de Redeyev. Mme Z. D. aurait pris la parole au cours de cette manifestation.

656. Le 14 août 2008, Mme Z. D. aurait été condamné par le Tribunal de première instance de Gafsa à huit mois de prison ferme pour « insubordination, troubles de l'ordre public, entraves à un fonctionnaire dans l'exercice de ses fonctions, détérioration des biens d'autrui et atteinte aux bonnes mœurs ». M. M. A. A., M. A., F. A. M., A. D., K. B. O. et N.C. auraient, quant à eux, été condamnés pour les mêmes charges à six mois de prison ferme.

657. Des accusations de harcèlement sexuel et de menace de viol auraient été formulées au cours du procès par Mme Z. D. à l'encontre du chef du district policier de Gafsa, mais celles-ci n'auraient pas été retenues. De même, M. M. A. A., M. A., F. A. M., A. D., K. B. O. et N. C. auraient accusé ce même chef de leur avoir extorqués des aveux sous la torture, ce qui n'aurait également pas été pris en compte par le tribunal.

### Réponse du gouvernement

658. Par une lettre datée du **26 janvier 2009**, le Gouvernement a indiqué que les prévenus Y. D., A. A., M. A., F. A. M., A. D., K. B. O. et N. C. ont tenté, sur le fond de certains troubles enregistrés dans la région de Gafsa, de transformer le mouvement de contestation pacifique en une véritable rébellion comme l'indiquent les actes d'agression et de voies de fait contre les agents de l'ordre ainsi que l'installation de barricades sur les voies publiques.

659. Il est établi que les prévenus susvisés avaient pris, dans ce cadre, le 27 juillet 2008, la tête d'une manifestation au cours de laquelle ils ont procédé à l'obstruction de la voie publique devant toute circulation en y dressant des barricades par l'utilisation de pneus, de vide-ordures et de grosses pierres. Les forces de l'ordre, intervenant pour rouvrir la voie publique à la circulation et assurer la sécurité des personnes et des biens, avaient essuyé des jets de pierres et des coups de bâtons. Une voiture de police a été gravement endommagée (vitres brisées et traces de coups de pierres sur la tôle). La sécurité publique s'était trouvée de ce fait gravement menacée.

660. Le gouvernement a spécifié que, contrairement à ce qui est allégué, les suspects, appréhendés en flagrant délit, n'ont subi aucune forme de mauvais traitement lors de leur arrestation. Ils ont été conduits au siège de la police judiciaire où ils ont été interrogés sur les faits qui leur sont reprochés. Le procureur de la République a été immédiatement avisé de l'enquête ainsi que de la mise des prévenus en garde à vue conformément à l'article 13 bis du Code de procédure pénale. Après clôture de l'enquête préliminaire, les prévenus ont été déférés au parquet qui a décidé d'émettre des mandats de dépôt à leur encontre et de les renvoyer devant la chambre correctionnelle pour répondre des chefs d'inculpation qui leur sont reprochés.

661. Le gouvernement a ajouté que les prévenus ont avoué lors de leurs interrogatoires avoir procédé à l'obstruction de la voie publique devant la circulation et jeté des pierres sur une voiture des forces de l'ordre. Le procès s'est tenu publiquement devant le tribunal de première instance de Gafsa. Il a été procédé à l'interrogatoire d'usage des prévenus en présence de leurs avocats. Contrairement à ce qui est allégué, le tribunal n'a nullement refusé de consigner les allégations de mauvais traitement des prévenus dans les procès verbaux d'audience, ceux-ci font état d'allégations se rapportant à des aveux extorqués sous la contrainte, outre des soi-disant menaces de viol qui auraient été proférées contre Z. D. Le tribunal a ensuite recueilli les plaidoiries des avocats. Après délibéré, le tribunal de première instance de Gafsa a déclaré les prévenus coupables des faits qui leur sont reprochés. Z. D. a été condamné à huit mois d'emprisonnement ; A. A., M. A., F. A. M., A. D., K. B. O. et N. C ont été condamnés quant à eux à six mois d'emprisonnement.

662. Sur exercice de leur droit d'appel, les prévenus ont été de nouveau jugés par la Cour d'appel de Gafsa qui a décidé un non-lieu pour l'ensemble des prévenus des chefs d'inculpation de rébellion commise par plus de dix personnes non armées, outrage à fonctionnaire public à l'occasion de l'exercice de ses fonctions et atteinte publique aux bonnes mœurs. S'agissant des autres chefs d'inculpation, la Cour d'appel a décidé de ramener la peine de Z. D. de 8 mois à 4 mois et demi d'emprisonnement. Quant aux autres prévenus, ils ont bénéficié de réduction de peine. F. A. M., M. A. et A. D. ont vu leur peine réduite à 3 mois d'emprisonnement ; A. A., K. B. O. et N. C. ont bénéficié d'un sursis à l'exécution.

663. Les prévenus ont attaqué par voie de cassation le jugement de condamnation rendu à leur encontre. Le pourvoi a été rejeté en la forme ; les avocats des prévenus s'étant limités à présenter leurs pourvois sans les accompagner des mémoires indiquant les moyens du pourvoi et les griefs à l'encontre de la décision attaquée comme l'exige l'article 263 bis du Code de procédure pénale. Le jugement de condamnation est ainsi passé en force de chose jugée. Le 5 novembre 2008, Z. D. a bénéficié d'une libération conditionnelle décidée par le juge d'application des peines. Les autres prévenus ont également été libérés, soit après avoir purgé leurs peines, soit en vertu du sursis à l'exécution accordé à certains d'entre eux.

## **Observations**

664. La Rapporteuse Spéciale remercie le Gouvernement de la Tunisie pour sa réponse à sa communication.

665. The Special Rapporteur would like to thank the Government of Tunisia for its reply to her communication.

## Turkey

### Response to a communication sent in 2007

666. By letter dated **14 September 2007**, the Special Rapporteur on violence against women, its causes and consequences sent an urgent appeal concerning Ms. C. M., born in 1981 in Marivan (Iran).

667. According to information received, Ms. C. M. is the daughter of an Iranian refugee Mr. A. M., who was recognized as a refugee in Turkey under the mandate of the United Nations High Commissioner for Refugees (UNHCR) and resettled to Canada in 2006. When Ms. C. M. first arrived in Turkey in 2001, she was registered as a dependent to her father's case. During their stay in Turkey, Ms. C. M. met Mr. I. Y. who was among the group of Iranian refugees that came from Iraq, and the couple married in Turkey in 2003. After their marriage, Ms. C. M. was added as a dependant to her husband's case. Mr. I. Y. decided to leave Turkey by irregular means in September 2006 and managed to arrive safely in Netherlands.

668. Ms. C. M. tried to leave by the same means as her husband but she was arrested at the Istanbul Airport on 14 February 2007 by the Turkish authorities and detained for a short period. Upon her release she was allowed to stay legally in Konya with a temporary residence permit. Ms. C. M. remains in Turkey without family support as her husband is now residing in Netherlands and her parents are in Canada.<sup>8</sup>

669. By letter dated **25 August 2008**, the Government informed that Ms. C. M. had left Turkey through illegal means and had gone to the Netherlands.

### Observations

670. The Special Rapporteur would like to thank the Government of Turkey for its reply to her communication.

## United Arab Emirates

### Allegation letter

671. On **20 October 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the independence of judges and lawyers, sent an allegation letter concerning the case of Ms. F. Z. M., a Moroccan national, alleged victim of rape in Dubai in July 2007.

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<sup>8</sup> The full summary of the case can be found in last year's report, A/HRC/7/6/Add.1.

672. According to the information received, Ms. F. Z. M. started working in the United Arab Emirates (UAE) in 2005, and in Dubai on 17 April 2007. A few days after moving to Dubai from Abu Dhabi, Ms. F. Z. M. became acquainted with two Moroccan men who were facing economic hardship and to whom she ended up providing shelter at her apartment. In July 2007, one of the two men, Mr. Y. A., raped her. Afterwards, the rapist called Ms. F. Z. M. and threatened to kill her if she reported the rape to the police. Later on, two of his friends, Mr. S. A. W. and Mr. R. H. also threatened to harm Ms. F. Z. M. and her family in Morocco if she ever reported the rape incident to Dubai Police. Ms. F. Z. M. had her contract in Dubai terminated shortly after. As she received another job offer in Lebanon, she left Dubai on 26 August 2007, to begin her new work, without reporting the rape to the police out of fear.

673. In November 2007, Ms. F. Z. M. returned to Dubai and filed a complaint for rape and threats at the Qusais police station. The three suspects were arrested on the same day and later referred to the Public Prosecutor. The Prosecutor interrogated the three men but eventually released them without interrogating the victim or the witnesses.

674. In his decision on case 1920312007, the chief of the 1st Deira Prosecutor's Office alleged that the fact that the complainant had allowed the perpetrator to live in her apartment and her prior loss of virginity made the allegation of rape unlikely. In April 2008, Ms. F. Z. M.'s attorney filed a complaint with the Dubai Public Prosecutor requesting him to interrogate witnesses and to reconsider the decision not to prosecute the suspects. He also questioned the legal basis for considering the fact that Ms. F. Z. M. was no longer a virgin at the time of the rape as a grounds for not prosecuting the man she identified as her rapist.

### **Reply from the Government**

675. By letter dated 26 January 2009, the Government replied to the communication sent on 20 October 2008. At the time this report was finalized, the translation of the Government's reply had not been finalised.

### **Observations**

676. The Special Rapporteur would like to thank the Government of the United Arab Emirates for its reply to her communication.

## **United Kingdom of Great Britain and Northern Ireland**

### **Allegation letter**

677. On **2 February 2009**, the Special Rapporteur on violence against women, its causes and consequences sent an allegation letter concerning Ms. N. A., a citizen of Afghanistan.

678. According to information received, Ms. N. A. was born 01 January, 1988, in Musa Qala, Helmand province. Her father, A. J., was killed in the crossfire of Hazarah ethnic groups seven years ago (in December 2001). On 2 April 2008, Ms. N. A. married Mr. N. K., who worked as a tailor and an interpreter for foreign non-governmental organisations based in Afghanistan.

About 40 days after the marriage, Mr. N. K. received two letters approximately a week apart. When Ms. N. A. inquired about the contents of the letters, her husband swore at the Taliban and said they wished him not to get on with his life and work. Ms. N. A. believed that they were warning letters by the Taliban preceding his arrest in mid June 2008, when eight to ten armed people broke into their house in the middle of the night. They blindfolded Mr. K. and took him away. Three days later, Mr. N. K.'s sister came to Ms. N. A.'s house screaming that her brother had been killed by the Taliban.

679. Within days of her husband's death, Ms. N. A.'s home was first visited by a servant/relative of M. A. S., a Taliban commander, and thereafter by a delegation of four, which included M. A. S. They brought a marriage proposal for Ms. N. A. with the brother of M. A. S. Ms. N. A. and her mother understood that if they did not agree to the marriage, it would either happen by force or they would be killed. Ms. N. A.'s mother discussed their predicament with a neighbour, who introduced them to a friend who assisted Ms. N. A. to leave Afghanistan. Ms. N. A.'s mother sold the house to pay for the journey. Two weeks after the death of Mr. K., Ms. N. A. and her mother travelled with the agent to Kandahar by car, from where Ms. N. A. continued to Quetta, Pakistan, then to what she believes was Dubai, to finally arrive in the UK on the 15th July 2008, where she lodged an asylum application.

680. Ms. N. A.'s application for asylum was rejected by the Home Office, UK Border Agency on the 24th November 2008. In their written decision, the Home Office substantiated their decision on a number of grounds, including, *inter alia*: doubts with regard to the fact that Ms. N. A.'s husband was indeed killed by the Taliban; doubts that she herself was pressured to enter into a forced marriage; and that she was able to live with her mother for seven years following the death of her father. The Home Office also expressed the opinion that Ms. N. A. could internally relocate to Kabul where she could seek protection in safe houses for single women, and receive sufficient protection from state authorities.

### **Observations**

681. The Special Rapporteur was pleased to receive information on 27 April 2009 that Ms. N. A. had been granted refugee status by relevant UK authorities, and was also determined to be a person at risk of treatment contrary to article 3 of the European Convention on Human Rights.

682. In the present case, the Rapporteur had highlighted the findings of her report following her visit to Afghanistan in 2005 which showed that women who experienced multiple forms of violence in the private and in the public sphere were often re-victimized as the authorities failed to protect them. Violence against women is tolerated and perpetrators often enjoy impunity because the law enforcement and justice systems are generally dysfunctional and are heavily biased against women. Furthermore, while noting the existence of some shelters, women who are forced to find shelter in a safe house generally risk finding themselves in a situation where they cannot be reunified with their family and have nowhere to go, thus leaving them with no durable solution in sight. The information the Rapporteur has continued to receive since her visit to Afghanistan indicates that her findings remain valid.

## United States of America

### Reply to a communication sent in 2005

683. In a letter dated 29 December 2008, the Government responded to the communication sent on 30 September 2005. The letter expressed concerns relating to violence against women and girls, women human rights defenders, and political leaders in Iraq. In particular, the letter expressed concern over the targeting by extremists of women for their activities in defence of women's rights.

684. The Government, while expressing its sincere apologies for the long delay in responding, stressed that the empowerment of women around the world is a top priority for the United States, as is the promotion and protection of the human rights of women. It further highlighted that these priorities are of particular importance to the United States in Iraq, where the United States has worked closely with the Iraqi Government, the international community and non-governmental organizations to address gender-based violence and related issues.

685. The response contained detailed information about the projects the Government carries out to promote women's equal participation in society and government; their initiatives through cooperation with multilateral organizations; and their support to several projects through various NGOs that focus on prevention and response to gender-based violence in Iraq.

### Observations

686. The Special Rapporteur wishes to thank the Government of the United States of America for the response provided to the communication sent on 30 September 2005, but regrets that it took the Government over three years to respond. She also regrets that the response of the Government, while it provides a very detailed account of various programs and projects carried out by the United States in Iraq, does not more directly address the specific issues contained in the communication regarding the situation of human rights defenders in Iraq.

## Zimbabwe

### Allegation letter

687. On **26 February 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the right to education, and the Special Representative of the Secretary-General on the situation of human rights defenders sent an allegation letter regarding a group of teachers and members of the *Progressive Teachers' Union* (PTUZ), including, Messrs. T. Z.(president), R. M.(secretary general), H. M , L. Z., O. M., B. S. , C. M. , and Ms. L. S., who were involved in a campaign entitled "Save our Education" which highlights shortcomings in the education system in Zimbabwe.

688. According to information received, on 19 February 2008, the aforementioned members of the Progressive Teachers' Union (PTUZ) were reportedly engaged in peaceful protest, distributing leaflets in Harare as part of the "Save our Education" campaign. While on Fourth St,

the protesters were accosted by a number of unidentified youths, who reportedly brought them to a building used by the ruling political party, the Zimbabwe African National Union - Patriotic Front (ZANU-PF), where they assaulted them.

689. The assailants reportedly hit and kicked the protesters with open palms, booted feet and iron rods. One female teacher was reportedly stripped naked in front of her male colleagues and assailants, and had her genital area repeatedly stepped upon. During the assaults, the victims were accused of being activists from the opposition party Movement for Democratic Change.

690. Reportedly, police officers arrived and took the teachers to Harare central police station where it is believed they may also have been subjected to ill-treatment. Lawyers were allegedly initially denied access to the teachers by one Detective Chief Inspector M.; with one lawyer being forcibly escorted from the police station. Offers to transfer the teachers to hospital were rejected by police despite their need of medical attention. They were eventually transferred to Harare Central Hospital in a pick-up truck, from where, after several hours delay awaiting medical attention, they were transferred to the Avenues Clinic, where they were admitted for treatment.

691. On 22 February 2008, all the aforementioned persons were released from hospital, and no charges were pressed against them.

### **Reply from the Government**

692. On **2 April 2008**, the Government replied to the letter sent on 26 February 2008. The Government informed that the group of teachers were all members of the Progressive Teachers Union of Zimbabwe (PTUZ) and were all facing investigations. The Government stated that on 19 February 2008, the PTUZ members went to ZANU PF Harare Provincial Headquarters where they threw fliers within the party premises. The fliers contained MDC political messages. Subsequently, a skirmish ensued between the ZANU PF supporters and members of the PTUZ and the police was alerted; they subsequently arrested nine members of the PTUZ and two ZANU PF youths.

693. The Government underlined that the police noted at the time of the arrest that indeed some of the PTUZ had sustained injuries as a result of the clash. It stated that all suspects were taken to the Police station and that at no time were the suspects subjected to any form of ill treatment by the Police. The suspects were subsequently taken to the Government hospital to get the proper medical report that would then be acceptable in Court.

694. The Government added that the two youths that assaulted the members of the PTUZ had been identified as T. C. (33) and C. G. (26) and were being charged on this account. In addition, the Government stated that the injured were not denied access to medical treatment and that the police could not be blamed for delays that occurred at the Government hospital. The Government finally stated that the members of the PTUZ were charged with contravening Chapter 46 of the Criminal Codification Reform Act Chapter 9:23, 'Criminal nuisance', and after their hearing were released on 50 million Zimbabwe dollars bail each, the same conditions as the two ZANU PF youth. All accused were set to appear in Court on the 19 March 2008.

695. On **13 May 2008**, the Government sent another memorandum in reply the letter sent on 26 February 2008 containing a similar response as the one provided on 2 April 2008. The government stated that the matter was still pending in Court.

### **Urgent appeal**

696. On **22 April 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on adequate housing (as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context), and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal regarding reports of intimidation, violence and torture as a form of retribution or victimization in the aftermath of recent elections.

697. According to the information received, between 29 March and 14 April 2008, 160 cases of injury resulting from organized violence and torture were treated by various doctors with many of the patients still remaining in hospital. One third of the patients were women. A fifth of the victims were members of the opposition Movement for Democratic Change (MDC) and another 20% were involved in the elections for the Zimbabwe Electoral Commission (ZEC). Nine patients sustained fractures (broken bones), reportedly typical of “defence injuries”, resulting from the victim raising his or her hands and arms to protect the face and upper body from assault.

698. During the same period, there were also reportedly: at least two politically motivated murders; 15 abductions of women; 288 cases of homes destroyed through politically motivated arson subjecting 175 families and 14 persons to displacement; and 48 cases of assault. The majority of persons displaced were said to be women and children. About 70 MDC members were arrested in those last few days as well.

699. The above-described violence had reportedly been perpetrated by police officers, soldiers and members of the ruling Zanu PF party as part of a reprisal campaign mainly in rural areas, where people had been voting for opposition candidates. In many instances, victims were told that they were being victimized because they support the opposition; they were accused of “celebrating the MDC victory”, “of selling the country to the whites” and/or “of being responsible for the rigging of elections in favour of the MDC”.

700. Reports also indicated that the authorities were targeting the independent local and foreign media, attempting to impede reporting on the current situation and the aftermath of the election by resorting increasingly to police harassment and the arrest and detention of journalists; the deportation of one foreign journalist was reported.

701. In parallel, the State-controlled media was reportedly airing programmes and songs encouraging violence, such as “Mr Government” by M. S. J., which celebrated the Government’s land seizures and called for the decimation of perceived political sell-outs (the song said: “We are living like squatters in the land of our heritage ... give me my spear so that I can kill the many

sell-outs in my forefathers' country."); as well as a well known song encouraging people to take up arms and fight for their freedom aired by ZTV. Moreover, there were reports that there were plans to entrust the distribution of food aid to the military in order to control the population through the politicization of food distribution.

### **Reply from the Government**

702. On **11 June 2008**, the Government replied to the communication sent 22 April 2008. It stated that some isolated and localised cases of violence had occurred in the country during the post-election period. However, it also stated that there was overwhelming evidence pointing to the fact that the MDC-T had been premeditating and planning violence well ahead of the 29 March 2008 elections, while the ZANU-PF's actions had largely tended to be reactive, in self-defence and retaliatory.

703. The Government responded that the President, Cabinet Ministers, Service Chiefs and various ruling party functionaries had all repeatedly before, during and after the 29th March Harmonised Elections, publicly declared their disapproval of violence and warned all would-be perpetrators of the full consequences of the law. The Government also informed that all cases that have been reported to the police were the subject of investigations as part of the due process of law.

704. Where no report has been made to the police, such as in the case regarding the 31 politically motivated murders claimed by the MDC-T as having occurred since 29th March 2008, the Government stated that the Police would find it impossible to take the initial steps to launch a due process.

705. The Government stated that it was impossible to verify the MDC-T's claims, particularly because it appeared that the party was complaining to the press before reporting the crimes to the police. The Government further stated that of the six murders allegedly committed by ZANU-PF supporters, subject to ongoing investigations, at least two did not seem to have been politically motivated. One of these was the case of C.D., who MDC-T's A. C. claimed to have been murdered in Shurugwi by a ZANU-PF supporter on 27 April 2008. According to established facts, however, D. died of immuno-suppression and tuberculosis at Mpilo Hospital, in Bulawayo, on 27 April 2008. Incidentally, on 11 April 2008, he had fought with a ZANU-PF supporter at a local township over money, but eye witnesses said that the two later went their separate ways.

706. The government stated that in another case, the alleged victim, a teacher in the Muzarabani area, had not been killed and had denounced the MDC-T for using his name to justify 'dubious statistics'. The Government concluded that these two cases proved that the MDC-T was fabricating and exaggerating its tally of victims in order to give substance to its claims. It further stated that the alleged politically motivated rapes, were completely alien and unheard of in Zimbabwe's political culture. It reiterated that every complaint received would be investigated and pursued, and that it had never been the Government's policy to support or condone violence or impunity.

707. The Government regretted that all 'evidence' cited by the Rapporteurs were painting the MDC-T as the victim and implicating ZANU-PF as the principal perpetrator of violence. It recalled that during the 'mass action' called by the MDC-T on 15th March 2008, "marauding

gangs” of MDC-T DRCs committed a wide range of crimes ranging from disrupting traffic through makeshift road blockades, burning vehicles to attempted murder. It said that these events led to the police arrests of 76 activists who had all confessed to be hired members of the DRCs.

708. The Government further stated that following ongoing investigations pertaining to Electoral Fraud, close to 100 arrests had been made. Five of these had already been convicted for Contravening Section 87 of the Electoral Act Chapter 2: 13 and sentenced to fines ranging between ZW \$ 12 billion and ZW\$ 30 billion. The remaining cases were at various stages of investigation or before the courts.

709. Regarding the questions of compensation for alleged victims, the Government stated that the victims were receiving the usual basic assistance from the Civil Protection Department and the resident humanitarian agencies in the country.

### **Allegation letter**

710. On **6 June 2008**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders sent an allegation letter regarding the situation of: Mr. P. S., member of the human rights non-governmental organisation *Crisis in Zimbabwe Coalition (CZC)* and another member whose identity had yet to be confirmed; Ms. J. W., national coordinator of *Women of Zimbabwe Arise (WOZA)*, a grassroots organization working to promote and protect women’s activism; Ms. M. M., co-leader of WOZA, and 12 other WOZA members, including one male belonging to WOZA’s sub-division, *Male of Zimbabwe Arise*; members of the Zimbabwe Election Support Network (ZESN) whose identities had yet to be confirmed; and Mr. M. S., a Gutu Resident Magistrate who had recently presided over several cases of political violence.

711. Since 2004, Ms. J. W., Ms. M. M. and several other WOZA members were the subject of several communications. According to new information received, on 30 May 2008, Mr. P. S. was arrested, together with another member, at the premises of the CZC by law enforcement officers and alleged Central Intelligence Organisation (CIO) agents. After searching the premises for broadcasting equipment, the authorities drove the 2 CZC members around for some time before releasing them with no charges. On 2 June 2008, four men allegedly belonging to the CIO urged the guard of the CZC office to inform them about the activities of the Coalition. The guard refused to open the gate, and the four men warned him that they would come back.

712. On 28 May 2008, Ms. J. W., Ms. M. M. and 12 other WOZA members were arrested in Harare during a reportedly non-violent demonstration. The police reportedly used force to apprehend the demonstrators. They were all charged with distributing materials likely to cause a breach of the peace under Section 37 of the Criminal Law (Codification and Reform) Act. Ms. J. W. was further charged with publishing or communicating false statements prejudicial to the State under Section 31 of the same Act. On 30 and 31 May 2008, some WOZA members appeared in court and were granted bail. However, the State prosecutor appealed the decision and the 14 WOZA have since remained in custody: the 13 female WOZA members were being held at Chikurubi Maximum Security Prison; the male WOZA member was being held at Harare Central Remand Prison. Conditions of detention in both facilities were reportedly difficult. The 14 WOZA members were due to appear in court again on 6 June 2008.

713. In mid-May 2008, three ZESN members were reportedly assaulted by members of the Zimbabwe African National Union - Patriotic Front militia in Mt Darwin East, Mutyandaedza village. They were later transported to Mt Darwin District Hospital for treating fractured arms, fractured fingers, deep cuts and bruises. However, admission to the hospital was reportedly denied to them.

714. On 21 April 2008, the car of Mr. M. S., parked outside his home in Mupandawana Growth Point, was set on fire by three unidentified individuals who ran away when Mr. M. S. came out. Mr. M. S. reportedly received a series of death threats prior to this incident.

### **Observations**

715. The Special Rapporteur would like to thank the Government for its reply to two out of three of her communications sent during the period under review. The Special Rapporteur reiterates her interest in receiving responses from the Government in regard to the allegations submitted and would be particularly interested to know whether these cases have resulted in any prosecutions of alleged perpetrators.

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